

CRIME CRIMINALITY AND CRIME CONTROL IN MUGHAL INDIA (1526-1707)

THESIS

SUBMITTED FOR THE AWARD OF THE DEGREE OF

Doctor of Philosophy

IN

HISTORY

BY

RUPALI YADAV

Under the Supervision of

Dr. FARHAT HASAN

CENTRE OF ADVANCED STUDY
DEPARTMENT OF HISTORY
ALIGARH MUSLIM UNIVERSITY
ALIGARH (INDIA)

2010

Abstract

Historians of South Asia have largely ignored the history of crime and criminality in medieval India. In their reluctance to treat it as a valid theme of study, they are, perhaps, guided by an implicit assumption that crime is merely an 'illegal' activity carrying no significance in historical development, except as a temporary aberration. However, what this oft-held assumption does not explain the process through which an activity becomes 'illegal.' There are actually no universal normative principles that define crime, but the framework within which a society demarcates 'normal' and 'legal' activities from the deviant and illegal once, is determined by its political, social and cultural setting. It has rightly been pointed out by Michelle Perrot that there are no 'facts' of crime as such, but what we often know as facts, is only a judgment process that institute crime by designating as criminal both certain acts and their perpetrators. In a similar vein, another historian says, 'crime is not an essential but an existential category. Behaviors and acts achieve the status of criminal, as social conceptions of deviance are given to them.

What was the process through which this happened in the Mughal period? More specifically, what were the ideological systems, institutional arrangements and power relations through which criminal activity was defined and repressed? This, in a sense, constitutes the core problem of my study. It seeks to explore the links of crime with society with a view to enrich our knowledge about the social history of the period. A contextual study of crime and criminality should, hopefully, allow us to probe deeper into the lives and mentalities of the socially marginalized groups who were often dubbed by society as criminals, with a natural proclivity towards 'illegal' and 'deviant' activity. It should also enable us to gain fresh insights about the processes through which the state and the dominant classes appropriated law and custom, as well as the institutional arrangements, to control and 'discipline' the oppressed social groups. At the same time, my study also seeks to explore the nature of latter's resistance, which is often termed in the contemporary elite sources as 'criminal' activity. In other words, my study would enlarge the domain of social history by fresh perspectives, as refracted through crime and criminality, on the mentalities of ordinary people, inter-class relations, state ideological apparatus and popular resistance.

Historical crime is of two kinds. The first is ‘ordinary ‘crime where the objective is livelihood, and the targets of attack indiscriminate. Generally, the nature and incidence of ‘ordinary’ crimes are viewed as bearing a direct relationship with the subculture of poverty. It is, of course, true that poverty-born crimes were quite widespread in the Mughal period. However, it does also appear from a critical reading of contemporary sources, that in the shaping of the perception that identified crime with the lower orders, the ideological, symbolic and institutional resources in the hands of the state and the dominant groups played a crucial role. In fact this was one of the important strategies through which they marginalized the inferior social groups from social and political domains. My study shall critically analyze this process of the ‘criminalization of the poor’, with particular reference to the role of the state and the power –holders.

The other category of the crime is what E. P. Thompson describes as ‘social crimes’. This category subsumes forms a popular protest and resistance. Social crimes occur within framework of a shared ‘moral economy’, and the ‘criminals’ engaged in them enjoy wide social support in the local society. Even as the state insists in branding them as criminals, the ordinary people see them as heroes, as champions, avengers, fighters of justice, perhaps,

even leaders of liberations, and many case , as to be admired, helped and supported'. It is for the reason that E.J. Hobsbawm calls them 'primitive rebels' or social bandits'. One of the objectives of this study is to analyze the evidence of social crimes in the Mughal period with a view to deepen our understanding about the nature of social conflicts and the forms of popular resistance during that time.

In a sense, the primary effort of my work is to study the complex mechanism through which the state and the ruling classes defined, repressed and punished crime. In doing so, it would also need to look at the role of law and the judicial system. E.P. Thompson had argued that law in eighteenth century England served as instrument of class domination, 'mediating and reinforcing existent class relations and, ideologically, offering to these a legitimating.' The Mughal legal sacral system, indeed, was also implicated in power relations, but what we do not know is the extent to which it served to perpetuate class inequalities from the framework of crime and criminality should, hopefully, place us in a better position to assess their roles in the perpetuation of social inequalities and the hierarchical ordering of the society.

My research on crime and criminality in Mughal India should, therefore, not be seen as merely a study of aberrant and 'illegal' activities. It is rather intended to be a much wider study of the social history of the period. It seeks to enrich our understanding of popular resistance, class conflicts, law and authority, state ideological apparatus and normative system by exploring their relations with crime, criminality and crime control.

CENTRE OF ADVANCED STUDY



Department of History
Aligarh Muslim University
Aligarh-202 002

FARHAT HASAN
Associate Professor

Dated: 13/7/10.

CERTIFICATE

Certified that **Ms. Rupali Yadav** worked under my supervision on the topic "***Crime Criminality and Crime Control in Mughal India (1526-1707)***". This thesis is the original work of the candidate and I find it suitable for submission for the award of the Degree of Doctor of Philosophy.

(Dr. Farhat Hasan)
Supervisor

Telephones: (0571) 2703146; Fax No.: (0571) 2703146; Internal: 1480 and 1482

CONTENTS

Acknowledgements

In the preparation of the present study, I have received support, help and encouragement from my teachers, friends and well wishers.

I am indebted to my supervisor Dr. Farhat Hasan for his kind assistance and caring guidance. I am grateful to my teachers, in particular, Prof. I.A. Zilli and Dr. Sumbul Haleem Khan, for clarifying many of my confusions, and for constant encouragement.

It would have been almost impossible for me to carry out the present study without the assistance of the staff members of seminar library, Centre of Advanced Study in History (AMU, Aligarh): Mr. Arshad Ali, Mr. S. Moin Akhtar Zaidi, Late Mr. S. Mazhar Hussain, Mr. Salman Ahmad, Mr. Banshidhar Sharma, Mr. Arshad Ali Chauhan, Mr. Nisar Ali and Mr. Zubair. I wish to thank all the non-teaching staff of the Department, especially Mr. Afzal Nabi Khan, for their cooperation and blessings.

I acknowledge my thanks to various libraries Central Library, Aligarh Muslim University, Aligarh; National Archives, Delhi and Indian Council of Historical Research Library, Delhi, for access to valuable and relevant material.

This study owes much to the painstaking efforts of host of friends and their good wishes, especially Moh. Shafi Ahamad and Masooma Siddiqui. I wish to thank entire family of my friend Masooma, especially her mother Farida Zafar, for letting me take refuge in their house during the final stages of my

work. Among my friends I extend my deep gratitude for Monika, Priyanka and Ambika for helping me in many ways. I thank Mehnaz Ara for helping me in Persian translation.

I wish to acknowledge my adorable parents, Ram Singh and Angoori Devi, who took care of my daughter when I was busy working, and who have stood by me through thick and thin. Thanks are due to my brother, Preetam for his love and unconditional support. Indeed, words fall short to express my love for him.

I am unable to express my feelings for my husband, Satyender Singh, who helped me at every step. I am particularly grateful to him for his remarkable endurance and persistent cooperation. I am indebted to my little princess Saanvi for patiently bearing my long absence when I was busy completing my thesis. I am seized of the inconvenience caused to my husband, parents and daughter while I was writing this thesis; for all this I would ever remain in debt to them.

Rupali Yadav

Introduction

Historians of South Asia have largely ignored the history of crime and criminality in medieval India. In their reluctance to treat it as a valid theme of study, they are, perhaps, guided by an implicit assumption that crime is merely an 'illegal' activity carrying no significance in historical development, except as a temporary aberration. However, what this oft-held assumption does not explain the process through which an activity becomes 'illegal.' There are actually no universal normative principles that define crime, but the framework within which a society demarcates 'normal' and 'legal' activities from the deviant and illegal once, is determined by its political, social and cultural setting. It has rightly been pointed out by Michelle Perrot that there are no 'facts' of crime as such, but what we often know as facts, is only a judgment process that institute crime by designating as criminal both certain acts and their perpetrators.[1] In a similar vein, another historian says, 'crime is not an essential but an existential category.

---

[1] Michelle Perrot, 'Delinquency and the Penitentiary Systems in Nineteenth-Century France', Robert Forster and Orest Ranum (eds.), French Society: *Selections from Annals Economies, Societies, Civilization*, vol.4 (Baltimore, 1978), p. 219

Behaviors and acts achieve the status of criminal, as social conceptions of deviance are given to them.[1]

What was the process through which this happened in the Mughal period? More specifically, what were the ideological systems, institutional arrangements and power relations through which criminal activity was defined and repressed? This, in a sense, constitutes the core problem of my study. It seeks to explore the links of crime with society with a view to enrich our knowledge about the social history of the period. A contextual study of crime and criminality should, hopefully, allow us to probe deeper into the lives and mentalities of the socially marginalized groups who were often dubbed by society as criminals, with a natural proclivity towards 'illegal' and 'deviant' activity. It should also enable us to gain fresh insights about the processes through which the state and the dominant classes appropriated law and custom, as well as the institutional arrangements, to control and 'discipline' the oppressed social groups. At the same time, my study also seeks to explore the nature of latter's resistance, which is often termed in the contemporary elite sources as 'criminal' activity. In other words, my study would enlarge the domain of social history by fresh

[1] Robert A. Nye, 'Crime in Modern Societies: some research Strategies for Historians', *Journal of Social History*, 11, 4 (1978), p. 493.

perspectives, as refracted through crime and criminality, on the mentalities of ordinary people, inter-class relations, state ideological apparatus and popular resistance.

Historical crime is of two kinds. The first is 'ordinary 'crime where the objective is livelihood, and the targets of attack indiscriminate. Generally, the nature and incidence of 'ordinary' crimes are viewed as bearing a direct relationship with the subculture of poverty. It is, of course, true that poverty-born crimes were quite widespread in the Mughal period. However, it does also appear from a critical reading of contemporary sources, that in the shaping of the perception that identified crime with the lower orders, the ideological, symbolic and institutional resources in the hands of the state and the dominant groups played a crucial role. In fact this was one of the important strategies through which they marginalized the inferior social groups from social and political domains. My study shall critically analyze this process of the 'criminalization of the poor', with particular reference to the role of the state and the power –holders.

The other category of the crime is what E. P. Thompson describes as 'social crimes'. This category subsumes forms a popular protest and resistance.

Social crimes occur within framework of a shared 'moral economy', and the 'criminals' engaged in them enjoy wide social support in the local society. Even as the state insists in branding them as criminals, the ordinary people see them as heroes, as champions, avengers, fighters of justice, perhaps, even leaders of liberations, and many case , as to be admired, helped and supported'.[1] It is for the reason that E.J. Hobsbawm calls them 'primitive rebels' or social bandits'.[2] One of the objectives of this study is to analyze the evidence of social crimes in the Mughal period with a view to deepen our understanding about the nature of social conflicts and the forms of popular resistance during that time.

In a sense, the primary effort of my work is to study the complex mechanism through which the state and the ruling classes defined, repressed and punished crime. In doing so, it would also need to look at the role of law and the judicial system. E.P. Thompson had argued that law in eighteenth century England served as instrument of class domination, 'mediating and reinforcing existent class relations and, ideologically, offering to these a

---

[1] E. J. Hobsbawm, *Bandits* (Middlesex, 1969), p. 17.
[2] Douglas Hay, Peter Linebaugh, E.P. Thompson, *Albion's fatal tree: Crime and Society in Eighteenth – Century England* (London, 1975), pp. 16, 22; E. J. Hobsbawm, *Primitive Rebels: Studies in Archaic Forms of Social Movement in the 19th and 20th Centuries* (Manchester, 1959).

legitimating.'[1] The Mughal legal sacral system, indeed, was also implicated in power relations, but what we do not know is the extent to which it served to perpetuate class inequalities from the framework of crime and criminality should, hopefully, place us in a better position to assess their roles in the perpetuation of social inequalities and the hierarchical ordering of the society.

My research on crime and criminality in Mughal India should, therefore, not be seen as merely a study of aberrant and 'illegal' activities. It is rather intended to be a much wider study of the social history of the period. It seeks to enrich our understanding of popular resistance, class conflicts, law and authority, state ideological apparatus and normative system by exploring their relations with crime, criminality and crime control.

The study is divided into five chapters. The first chapter, entitled, 'Love, Lust, Women and Crime', deals with sexual crimes and crimes against women. It looks at the efforts through which the state defined, repressed and controlled sexual deviance. It also explores the impact of state intervention in sexual crimes in reinforcing patriarchy, and the subordination of women in the society. The second chapter, 'Poverty and Crime in Mughal India',

[1] E. P Thomson, *Whigs and Hunters: The Origin of the black Act* (New York, 1975), p. 262.

deals with ordinary crimes, resulting from poverty. Poverty was rampant in Mughal India, and was an important source of crimes in Mughal India. The bulk of the population lived on subsistence level, and slight fall in income or resources could threaten the existence of a large number of poor subjects. Crime was, in such situations, no more than strategies of survival. The third chapter, entitled, 'Crimes against the State: Highway robberies and rebellions', deals with the resistance against the state as a crime. It deals with the revolts and rebellions against the state, and the efforts of the state to control them. The chapter also explores social crimes, which enjoyed popular support, and were seen by poor subjects as legitimate forms of resistance. The perpetuators of these crimes were treated as heroes, and avengers of justice, and could appropriately be called, in the language of E.J. Hobsbawm, 'primitive rebels'. The next chapter deals with the criminal law under the Mughals, and makes a detailed scrutiny of the state laws and the *shari'at* in convicting and punishing criminals. The chapter has shown that the Mughal legal-punitive system did not conform to the Islamic laws, and exhibited a marked divergence from the *shari'at.* The last chapter is concerned with the Mughal administrative structure, and looks at the officials who were concerned with the policing and control of crime in

Mughal India. It also makes an effort to examine the effectiveness of the Mughal bureaucracy in controlling crimes and in punishing the criminals.

I

Love, lust, women and crime

It goes without saying that women in Mughal India were considered subordinate to men, and, in the legal-sacral framework, a man's possession. Given their inferior position in society, there was a certain tolerance of violence against women. A large number of crimes against women must have gone unreported, and in those that were, it was uncommon for women to receive justice. Even so, it seems, there were limits to the oppression of women, and the state did intervene in crimes that clearly exceeded the socially tolerable limits. Women did also report cases of violence and injustice, forcing the state to intervene, occasionally, in their favour.

Under the Mughals, there is countless evidence of women owning and inheriting property, managing property and defending their rights in property in courts of law.[1] Women in the elite, aristocratic families, including the royal women, were usually well-educated, and quite conscious of their 'rights' and entitlements[2]. Even so, the society was still deeply patriarchal,

---

[1] See, for example, Rafat Bilgrami, *Religious and Quasi Religious Department Of The Mughal Period,* (New Delhi, Manohar Publication: 1984); Farhat Hasan, *State and Locality in Mughal India, Power Relations in Western India, c. 1572-1730,* (University of Cambridge Oriental Publications:2004)

[2] See, for example, Findley Ellison Banks, *Nurjahan, Emperers Of Mughal India,*(New York, Oxford; 1993); Ruby Lal, *Domesticity and Power in the Early Mughal World,* (Cambridge Univ. Press 2005)

and crimes against women were quite common, often unreported, occurrences in the period.

One of the most common, and indeed rarely reported, crimes against the female child was infanticide. Owing to the wide prevalence of dowry, in families of modest means the birth of the daughter was considered inauspicious and an economic burden. Even among well-off Rajputs, the birth of the daughter was not welcomed, prompting them to put the newborn to eternal sleep. Most instances of female infanticide went unreported, but when they did come to the notice of state authorities, our evidence suggest that the state did selectively intervene to punish the offenders. The state intervention was selective, restricted to the plebian sections of society. The aristocrats and the dominant groups practicing female infanticide were never booked by the state, and were left undisturbed in the perpetuation of this heinous crime.

The practice of infanticide was by no means confined to the Rajputs in Rajputana. There is evidence of its prevalence in Agra, Oudh and the Punjab, Bombay presidency and the central provinces, even among the non-Rajput castes. This barbarous custom appears to have prevailed in the northern districts of Bengal as well. In his Memoirs, Jahangir admits to the

wide prevalence of female infanticide. He says: "when a daughter is born to a man without means, they put her to death by strangulation."[1]

Even as the state was reticent in curbing female infanticide, it was far more intrusive when it came to issues of sexual transgression. It was usually the woman who bore the brunt of state punitive machinery in such cases, and, in the prevailing legal system, it was the presumption of guilt was placed on women. More unfortunately, even in instance of rape, women's complicity was usually assumed. Jahangir saw women as cunning and deceitful, and in a tone that is full of contempt for women, says: "Do not grieve over the death of daughter, do not follow the advice of women. Never be complacent and neglectful of their deception and artifice."[2]

According to the Islamic law, both adultery and fornication, called *zina,* were severe crimes, and attracted severe punishment. Since it invited severe punishment, the law required at least two witnesses for conviction.[3]

According to the Islamic law the liability to the punishment for *zina* is established either by confession of the offender or by witness of four reliable

---

[1] Jahangir, *Tuzuk-i-Jahangiri*,ed. Syud Ahmud (Gazipur and Aligarh, 1863-64), trans. by A. Rogers and H. Beveridge, 2 vols., (London, 1909-14), p. 181.
[2] *Pandnama-i-Jahangiri*, appended to Khwaja Nimatullah al-Harawi, *Tarikh-i-Khan-i-Jahani*, II, (Dhaka, 1962), p. 703.
[3] The Encyclopedia of Islam,Vol XI , page 509; Shaikh Nizam Burhanpuri, *Fatawa-i 'Alamgiri*. Trans. Saiyad Amir Ali,ed. A. Rahman(Lucknow, 1932), Vol. II , p. 662.

persons. The punishment would be inflicted only if the confession was repeated four times in four separate meetings. It may lapse if a man retracted his own confession before the punishment is given. In case of establishing the crime by witness, at least four reliable and competent witnesses are required to declare in clear terms that they witnessed the parties concerned in the very act of committing adultery.[1]An adulterer is to be stoned to death if he is a *muhsin*;[2] otherwise he is to be flogged with a hundred lashes.[3] The royal orders and imperial edicts of the early Mughal period are silent about the punishment for those who were charged with the adultery. Clause XXVIII of Aurangzeb's penal code states that the cases of adultery should be decided by the *qazi* in accordance with the *shari'at.*[4] As regards the actual cases of adultery brought to the notice of authorities only few references are available in the contemporary sources.[5] They, however, help

[1] Burhanuddin Ali bin Abu Bakr Marghinani (1197 A.D.), *Al- Hidaya*, trans. Charles Hamilton (London, 1870), II, pp. 486-87.

[2] The word *muhsin* is generally explained as a married person who is misleading. The *muhsin* as a technical term is defined in the Islamic law as a person who is free, sane, major, lawfully married and who has kept marital relation with his wife in a legal way (*Hidaya*, II, p.490).

[3] *Hidaya*, II, p.488. If the offence is committed by a slave the penalty is reduced to half.

[4] Khan, Ali Muhammad (1761), *Mir'at-i Ahmadi,* ed. Nawab Ali, 2 vols. And supplement (Baroda, 1927-28, 1939), I, p.282. Monserrate informs us about the reign of Akbar that those who were guilty of such unnatural crimes were punished by savage scouring and leather thongs (Monserrate, Antony, *Commentary on his Journey to the Court of Akbar,* trans. J.S. Hoyland, annotated by S.N.Banerjee, London, 1922), pp 209-10.

[5] The conduct of such cases was the responsibility of the *qazi.* If the court proceedings of the period were available we would have been more in a position to know about the matter. Then, conditions laid down for establishing the offence were so hard that it would have been difficult to find sufficient witnesses.

us have an idea about the nature of punishment given to the adulterer in Mughal India.

Only three cases of this kind are reported from Akbar's reign. In two cases the culprits were punished with death sentence. In one case, the offender was subjected to castration. In 1589 while Akbar was in Kabul encamping at Safed Sang in the vicinity of the city it was reported to him that a base follow had dishonoured a peasant's daughter. The Emperor awarded capital punishment to the culprit.[1] In 1582 Jalal was accused of adultery. An enquiry was undertaken at the imperial order. The offence was proved and he was strangulated.[2] In 42nd year of Akbar's reign Hafiz Qasim was castrated by the imperial order for violating the chastity of a woman.[3]

Sir Thomas Roe records that in the reign of Jahangir a woman and a eunuch were found guilty of committing adultery in the royal palace. A person who loved that woman killed the eunuch. The murderer was condemned to be trampled under the feet of an elephant. The woman was buried up to armpit

---

[1] Abul Fazl (1601), *Akbarnama*, eds. Agha Ahmad Ali and Abdur Rahim, 3 vols (Calcutta, 1873-87) III, p.569. It is not clear in what way he was punished. An interesting case is recorded about the reign of Mahmud Shah Bahmani I (1379-1397). A women convicted of adultery was brought to the court of the *qazi* for trial. He asked her how she came to be guilty of so heinous crime. She replied that she was unaware of its illegality and thought that as one man may have four wives, the woman was also allowed to have four husbands. She further told that she repented and will not repeat the crime. The *qazi* exempted her from punishment and set her free; Muhammad Qasim Hindu Shah Ferishta, *Tarikh-I Ferishta*, (Nawal Kishore, Lucknow, 1864), I, p.303.

[2] Ibid, III, pp.390-91; Monserrate, *Commentary*, p. 210.

[3] Ibid, III, pp. 573.

in earth, her feet tied to a stake. She was kept in the same condition for three days and two nights. Her bare head and arms were completely exposed to the sun. It was decided the she, if survived, was to be pardoned.[1] Izzat Khan, governor of Sindh was punished during the reign of Aurangzeb for the same crime with dismissal from his office and resumption of all ranks.[2] None of the above punishments awarded to the adulterers were in accordance with the *shar'iat*. Clearly, punishment varied by class and status, and there was no uniform manual of punishment for crimes against women.

Besides, there are some other cases in which the adulterers were unofficially punished in one way or other, but no reaction of the state is recorded upon these punishments. It is related about the reign of Shahjahan that a servant found his sister and Didar khan (one of the principal eunuchs of Shahjahan) closeted together. He stabbed Didar khan and put his sister to death.[3] Another case of the same period is that of a rich Muslim merchant who

---

[1] Thomas Roe, *The Embassy of Sir Thomas Roe, 1615-19*, ed. W. Foster, (London, 1926), pp. 190-91. No account of this case is found in the Persian sources.
[2] Niccoleo Manucci, *Storia do Mogor, 1653-1708*, trans. W. Irvine, 4 Vols. (London, 1907-8), II, pp. 204-206.
[3] Francois Bernier, *Travels in the Mughal Empire*, 1656-68, trans. A. Constable, (reprint. New Delhi, 1983), p. 131.

found his wife in bed with another person. He killed her along with a child of three. The lover probably had made good his escape.[1]

False accusation of adultery (*qazf*) was also a crime in Mughal criminal system. According to *shar'ia,* if a person explicitly[2] accused a Muslim (whether man or woman) of adultery and failed to present four reliable witnesses he is liable to be punished with eighty lashes.[3] As regards the application of this law during the Mughal period it is difficult to arrive at any conclusion, because we could get only one case from the contemporary sources which mention the punishment under this offence. We are informed by Manucci that in the reign of Aurangzeb a woman, who had falsely accused a Rajput, was severely punished.[4] It is not clear what kind of punishment she was subjected to. However, the woman in the above case was not liable to *hadd* punishment as one of the conditions for the application of the punishment is that the accused should be a Muslim.

The crimes of adultery had to be established before the *qazi*, and the *qazi* adjudicated and awarded punishment by basing himself on either the

---

[1] John Fryer, *A New Account of East India and Persia, 1672-81* (ed. W. Crooke, reprints, Delhi, 1985), I, p.245.
[2] In case of woman, impugning the legitimacy of her child also amounts to explicit accusation.
[3] *Qur'an* IV, 24; *Hidaya*, II, pp. 508-9. The punishment under this offence would become enforceable after the accused has demanded it as it involves his individual right.
[4] Manucci, *Storia*, I, p. 175.

confession of the offenders or the statement of witnesses. According to Abu Hanifa, punishment was to be inflicted only if the confession was repeated four times. The penalty, however, lapsed if a man retracted his own confession before the punishment was inflected.[1]

A *farman* was issued by Aurangezeb in 1672 that laid down that if any person entered another man's house for the purpose of committing adultery, he was to be severely chastised and confined till he showed signs of repentance.[2]

During the reign of Sher Shah in 1540, his eldest son, Adil Khan riding on an elephant passed through one of the streets of Agra, attended by his cavalcade. As he was making his rounds, he happened to see a young wife of a citizen, bathing naked in the upper story of her house, the walls of which were in a dilapidated condition and allowed the objects inside to be seen by a man riding on an elephant. The prince was charmed with her looks. The moment he saw her, he sent a betel or *birapan* to her to secure her affections. She was not a woman of easy virtue, and when her husband came home, she narrated the incident to him. The husband, feeling his honor wounded, laid his complaint before the Emperor who was convinced of its truth. In his

[1] Shaikh Nizam Burhanpuri, *Fatawa -i- Alamgiri*, II, p. 663.
[2] Khan, Ali Muhammad, *Mir'at-i Ahmadi*, p. 282.

verdict, he upheld the principle of retaliation enjoined in the *shari'at,* and directed that the complainant would be seated in his turn, on an elephant, and would pass through the street and see the Prince's wife when undressed and bathing. Great was the excitement that prevailed in the court and alarm caused in the king's *haram* at the prospect of a female member of the royal household being thus publicly dishonoured. The king was inflexible in his resolution. In vain did his *amirs* and counselors exert themselves to mollify him. "Such is, said His Majesty,' the law of our religion, and it must be enforced in its entirety that the accused happens to be a king's son, is no reason why his guilt should be passed over with impunity. Law is meant to be obeyed, and, administering justice, there should be no difference a prince of royal blood and a peasant." The complainant, seeing that his honour had been sufficiently vindicated, withdrew his complaint, declaring that he had gained his right and was satisfied with the Emperor's justice, and at his earnest solicitation the matter was dropped. While the authenticity of the incident is suspect, it does reveal how the court was popularly perceived during the period.[1]

[1] Syed Muhammad Latif, *Agra, Historical and Descriptive, with an Account of Akbar and His Court and of the modern city of Agra,* (Lahore, 1896), pp. 14-15.

Adultery and related crimes are described in great details by the European travelers. According to Tome Pires, if a married man kills his wife and her adulterous partner, he would not only be punished, but would also be commended for his work by the state officials. In 1674-75, when John Fryer visited the Deccan, he saw a rich Muslim merchant killing his wife and a *child he had by her of three years old, upon taking her with her paramour in* adultery; but the *qazi* acquitted him and absolved him of any wrongdoing.[1]

When Hussain Ali Khan was on his way from Aurangabad to Agra, a girl, the daughter of a poor widow, impelled by the pangs of hunger, she availed herself of the darkness of the night to stroll about the tents in quest of some food. A man was actually dressing some victuals; and having asked her, whether she choose to follow anyone that would take care of her, she consented, and fell asleep close to the man, who overcome by the fatigues of a long march, slept soundly the whole night without ever thinking of the girl. At day break he got her mounted upon a camel that carried his things and sent her with the baggage. Meanwhile, the widow, who had in vain waited for her daughter all night appealed to the governor to secure the return of her daughter, and if she had been violated, punish the offenders. The girl was

[1] John Fryer, *A New Account of East India and Persia*, p. 245.

discovered, but when she informed the governor that the concerned officers had not even touched her, the accused was acquitted.[1]

In *A'in-i-Akbari*, Abul Fazl refers to a rape case that required imperial intervention. Mubarak khan's son Beg Olugh was accused of having had criminal intercourse with a concubine of Sultan Mahmud.[2]

One of the Brahmins, Zunnasdar, kept his own daughter as mistress and even had children by her. The Brahmin and his daughter were summoned at the imperial court, where he confessed to his crime. He was condemned to death and his daughter repented of her offence, and escaped with her life.[3]

During the reign of Jahangir in 1610, a widow complained that Muqarrab Khan had taken her daughter by force in the port of Cambay and had kept her in confinement at his house. When she enquired about the girl he told her that she had died a natural death. Jahangir ordered an enquiry, and discovered that one of his attendants had killed her. Jahangir ordered the

---

[1] Saiyad Ghulam Hussain Tabatabai, *The Seir Mutakhirin* (Low Price Publications, Delhi, reprinted: 1990), pp. 122-124.
[2] Abul Fazl (1595), *A'in-I Akhbari*, ed. Blochmann, 2 vols(Calcutta, 1867-77), p. 464
[3] Nizamuddin Ahmad (1592-93), *Tabaqat-i- Akbari*,(Lucknow, 1875), p. 436-38.

offenders to be put to death, reduced Muqarrab Khan's *mansab* by half, and fixed an allowance for the injured woman.[1]

A curious case is reported by Manucci concerning the marriage of the daughter of Abdul-Wahhab in Delhi. Abdul-Wahhab was the *qazi* in Delhi, and, according to Manucci, did not want her daughter to get married for she looked after his house. Nevertheless, she managed to get her father to give her in marriage without his knowing it. She fell in love with a boy in the neighborhood, fled the house and married her. Then she went with her spouse to the *qazi's* public audience. On arriving, the groom asked Abdul-Wahhab to preside over their marriage. The *qazi* not recognizing the woman to be his daughter asked her if she consented to marriage with the youth. Disguising her voice she answered 'Yes'. The *qazi* performed the ceremony and dismissed them. The matter was brought before Aurangzeb who held that the marriage was legally valid and within the bounds of *shari'at.*[2]

In Qasim Bazar, in 1727, Manucci witnessed a Hindu woman burning herself to death. She had poisoned her husband by reason of her 'love for a musician', hoping to get married afterwards to her lover. But on the husband's death the musician refused to marry her. Thus, finding herself

[1] Jahangir, *Tuzuk*, p. 172.
[2] Manucci, *Storia*, II, pp. 176-177.

deprived of a husband and sullied reputation; she decided to burn herself to death. A great crowd collected to look on; among them appeared the musician, hoping to receive from her something by way of memorial. It is usual for women undergoing self-immolation to distribute betel-leaf or jewels. The place was a large pit. As she was circumambulating this pit, she came close to the young musician, and taking from her neck a gold chain she had on as an ornament, she flung it round the young man's neck, and taking him forcibly into her arms, jumped into the pit.[1] This was perhaps a socially accepted way of expiation for such a heinous crime as the murder of the husband.

Manucci also narrates a case of adultery. An Indian widow of a European was known as an honorable woman. In the neighborhood of this lady dwelt a very wealthy Muslim merchant, married to a woman of respectable family. When he left for Surat in pursuit of his business, the woman committed adultery and became pregnant. Seeing her fault thus exposed, and expecting on her husband's return to be put to death, she resorted to the above widow, her neighbor, and sought her advice. The widow, says Manucci, saved her

---

[1] Manucci, *Storia*, II, p. 89.

life by taking custody of her child, and declaring the newly born son of the Muslim merchant, her own.[1]

Debauchery among Mughal officers was common, and was largely ignored by the state. Abul Fazl himself records the abominable behaviors of one of the nobles, Mirza Ghazi Beg. In his own words, "Not only was he given to wine, but he required every night a virgin; girls from all places were brought to him and the women of the town of Thatta are said to have been so debauched, that every bad woman, even long after his death, claimed relationship with the Mirza.[2]

In certain schools of Islamic law, sodomy is forbidden even more strictly than adultery. According to one opinion sodomy is like adultery (*Zina*): a *Muhsan* is to be stoned and flogged. Abu Hanifa maintains that the offender was to be punished and imprisoned for life.[3]

Sodomy was not unknown in India. Fryer writes that sodomy was common in Mughal India. Owing to its wide prevalence, the Muslims did not trust the tutors of their children.[4] According to Manrique the "unmentionable vice"

---

[1] *Ibid.*

[2] Abul Fazl, *A'in*, I, pp. 392-393.

[3] Mohammad, *Maalim al-Qarba*, (ed. By Levy), p. 70.

[4] Fryer, *A New Account of East India*, I, p. 282.

was very common in India.[1] Catamites dressed and adorned themselves as women, and paraded the streets soliciting "other persons as dissolute as themselves."[2]

Likewise, the unnatural love for beardless boys was common. According to Khwandmir, "all the inhabitants of the kingdom were divided into three classes- *Ahl Daulat* (nobles), *Ahl-i-sadat* (religious men), and *Ahl-i-Murad* (entertainers). "Those who possessed beauty and elegance, those were most lovely, also clever musicians and sweet singers composed the third class, and the appellation of *Ahl-i-Murad* was conferred on them, because most people take great delight in the company of such young-looking men, of rosy cheeks and sweet voices"[3]. Under Akbar, sodomy became a crime and he took stern measures to repress it.[4]

Akbar made several efforts to reform in marriages in Mughal India, criminalizing several widespread practices associated with marriage. One important regulation introduced by Akbar concerned monogamy, where by a person should not have more than one wife, unless he had no child. In all other cases, monogamy should be enforced. Similarly, when women had

---

[1] Fray Sebastian Manrique, *Travels, 1629-43,* trans. C.E. Luard assisted by H. Hosten, 2 Vols. (Haklyut Society, London, 1927), I, p. 240.
[2] *ibid*
[3] Khwandmir, *Humayunnama*, (New Delhi: Low Price, 1867-77), V, p.120.
[4] Abul Fazl, *A'in*, I, p. 335.

passed their reproductive age, they, she should not wish for a husband. If widows liked to remarry they could do so, even though the prevailing traditions condemned it. Akbar also abolished forcible *sati,* but permitted widows to burn themselves out of their own will. Akbar was also against older women marrying much younger men, and passed an order prohibiting the marriages in all cases where the bride happened to be at least 12 yrs older than her husband. Though Badauni even says that a decree was issued to enforce monogamy, there remained a paper order and clearly the imperial family was exempted from the injunction.[1] Akbar was anxious that young girl should not be given away in marriage because of the hazard this pose to their health. This anxiety was reflected in actual prohibitions of marriages of girls below the age of puberty, defined as 14 or 12 yrs. That Hindu marriages were also covered in the ban is shown by the fact that Akbar commented on the inequity of marrying off a minor girl especially "under a law where a women, being so much younger than her husband, cannot marry again."[2]

These orders regulating marriages were not in accordance with the Islamic law. It does not seem that any effort was made to enforce them seriously.

---

[1] Abdul Qadir Badauni (c. 1595), *Muntakhab-ut Tawarikh,* eds. Munshi Ali Ahmad and W.N. Lees, 3 vols. (Calcutta, 1864-69), II, p.356.
[2] Abul Fazl, *A'in* ,II, pp.242; Badauni, *Muntakhab-ut Tawarikh,* II , pp.338,391.

Nor do we come across any punishment meted out to those who infringed them.

If a young woman were found running about the lanes and bazaars of the town unveiled, or if a woman were deceitful and quarreled with her husband, she was to go to the quarters of the prostitutes.[1] Since our sources for these references come from European traveller's accounts, it is expected that they would suffer from gross exaggeration. However, they are not without any basis, at all and represent ways of controlling and discipline women.

Castration of young boys to make them eunuchs was another crime of sex common in the Mughal period. In the reign of Jahangir, nobles used to convert young boys in to eunuchs so that in 1610 Jahangir gave the order that "no one should make eunuchs or buy or sell them and whoever did so would be answerable as a criminal. At this time Afzal Khan sent some of these evildoers to court from the *subah* of Bihar, who were continually perpetrating the vile offence. I ordered these unthinking ones (*bi-aqibatan*) to be imprisoned for life."[2] Despite imperial prohibition, the practice appears to have continued unabated all through the Mughal Empire.

---

[1] Badauni, *Muntakhab-ut Tawarikh*, II, pp. 302-3, 403.
[2] Jahangir, *Tuzuk*, p. 168.

In the reign of Shahjahan female dancers and public entertainers were found in great numbers in the cities. Aurangzeb criminalized these communities and ordered that they must either marry or move out the realm. The places and great enclosures where they dwelt and performed went to ruins and the either married or moved out of the imperial domains.[1]

Of all the criminal practices that were practiced, widow burning is undoubtedly the most famous. It was even known in ancient Greece and Rome. This custom was quite common among Scythians. In China if a widow killed herself in order to follow her husband to heaven; her corpse was taken out in a great procession.[2]

A woman who died by burning herself on her husband's funeral fire was considered most virtuous in India. The Mughal state criminalized involuntary or forcible *sati,* and there are several instances where the state prevented the widow from being immolated by members of her family and community. Voluntary *sati* was still legal, and was not treated as crime punishable under law.

---

[1] Manucci, *Storia* , II, p. 6.

[2] see C.H.Tawney, *Kathasaritsagara*, Terminal Essay on Suttee by Penzer, (Delhi: Motilal Banarsidas, 1968), IV.

Travellers' account gave ample examples of this custom. They were often witness to this barbarous custom. Tome Pires, who visited India in 1512-1515, graphically described several cases. In Cambay, Goa, Kanara, Sunda and Java, he saw cases of widow burning. In Cambay, he observed that it was very widely practiced among upper casts Hindu. He says, "There are also many heathen natives and many esteemed Brahmans. Whenever a heathen of the country dies, it is the custom for his wife, if he has one, to burn herself alive, so that she may keep her husband company wherever he may be. If she does not do this, not only is she herself dishonored, but all her relatives also; and sometimes the wives are not willing and their relatives and the Brahmans persuade them to burn themselves, so as not to depart from the custom."[1]

Concerning the practices of both widow immolation and female infanticide, Jahangir gave an order that there were criminal acts and would not be tolerated in the Mughal Empire; whoever was guilty of them, would be awarded capital punishment. According to Jahangir, "some Hindu Women burn themselves along with their husband's body, so these women (the Rajaur women) are put into the grave along with their (dead) husbands. They

[1] Tome Pires (1512-15), The Suma Oriental of Tome Pires: *An Account of the East from the Red Sea to Japan*, trans. Armando Cortasao (London, 1944), I, p. 167.

put alive into the grave a girl of ten or twelve along with her (dead) husband, who was of the same age.[1]

Referring to the impact of imperial prohibition of *sati,* Tavernier informs us that, a woman could not burn herself with the body of her husband without permission from the governors of the place, which was not readily given.[2]

Widows did seek the permission of the governor to commit *sati.* Tavernier refers to a young and beautiful woman of twenty two years of age who sought the governor's permission to burn herself with the body of her deceased husband.[3]

Even the traveler Manucci also reported several instances of *Sati* in Mughal India. During his stay in Agra, he claims to have rescued with the aid of an Armenian friend a widow about to be burnt, forcibly by the people surrounding her, when the accompanying Brahmins, complained to the king that the soldiers did not allow *sati,* in accordance with their custom, the king

---

[1] Jahangir, *Tuzuk*; p. 181.

[2] Jean- Baptiste Tavernier, *Travels in India*, 1640-67, (transl. V. Ball, 2nd edition revised by W. Crooke, 2 Vols., London), II, pg-163; also see Bernier, *Travels,* p. 306.

[3] Tavernier, *Travels in India* , II, p. 170.

issued an order that in all lands under Mughal control the officials should never allow a woman to be forcibly burnt.[1]

Drinking wine (*shrub-ul khamar*) is also a crime for which punishment has been fixed by the *shari'at.* In case a Muslim consumes liquor and is caught while his breath smells of alcohol, or is brought before the *Qazi* in the state of intoxication, and two witnesses testify of his having taking wine, he is to be punished with eighty lashes in case he is a free man; the punishment will be reduced to forty lashes if the accused happens to be a slave. The offence is also established if the offender himself confesses his guilt.[2]

In Mughal India a number of royal ordinance were issued proclaiming official prohibition of drinking, but they did not prescribe any particular punishment for those who violated the prohibition. An ordinance issued by Akbar in 1593 exempted from punishment those persons who took wine on medical advice. But it was laid down that severe punishment would be given to those who indulge in excessive drinking. [3] The duties of *kotwal* as stated

---

[1] Manucci, *Storia*, II, p. 90.

[2] *Hidaya*, II, pp. 505-6. A man is not to be punished if he smelled of wine and did not confess his guilt or two witnesses did not give evidence. If a man confesses his guilt and two witnesses give the evidence after the smell of wine is extinct from his mouth, he is not liable to hadd according Abu Hanifa and Abu Yusuf. Imam Muhammad thinks that he is still liable to the prescribed punishment.

[3] Badauni, *Munthhab-ut Tawarikh*, II, pp. 301-2. In order to prevent from taking advantage of this exemption, Akbar had ordered a wine shop to be opened near the palace to supply wine at prescribed rate for those who needed it as the remedy for some illness. The needy were required to put the names of their father and grand- father in the register of *mushrif* (head- clerk of revenue department).

by the *A'in* included preventing people from making, selling and purchasing wine,[1] but there is no mention of what steps he was required to take against its users. Admitting his own indulgence in drinking, Jahangir in the very first year of his reign issued ordinance prohibiting manufacture, sale and use of wine and all other kind of intoxicating liquor.[2] In 1609, Jahangir put ban on the sale of *bhang* and *buza* (which were also intoxicating items in the market).[3]

Shahjahan also prohibited wine drinking in private or public but allowed the Christians to manufacture wine for their use only.[4] It was in the reign of Aurangzeb that elaborate rules were formulated against the manufacture, use and sale of wine and certain administrative steps were also taken to strictly enforce the prohibition. Not only did he prohibit the use of wine but also that of other intoxicants like *bhang, toddy* and opium.[5] To make the prohibition

---

[1] Abul Fazl, *A'in*, I, p. 198. referring to the reign of Akbar, Ali Muhammad, *Mir 'at*(I, p.169) states that the governors were ordered to give exemplary punishment to distiller, seller and drinker of wine.
[2] Jahangir, *Tuzuk*, pp. 4,9; Ali Muhammad, *Mir 'at*, I, p.185.
[3] Jahangir, *Tuzuk*, p. 75.
[4] Manucci, *Storia*, I, pp. 252-53, Abdul Hamid Lahori, *Padshahnama*, eds. Kabir Al-Din Ahmad and Abdul Rahim (Calcutta, 1866-72), II, pp. 617-18.
[5] Ali Muhammad, *Mir 'at*, I, pp. 247, 251. Aurangzeb is reported to have severely rebooked his grandson Azimuddin (Governor of Bengal) who had created a centre for manufacturing and selling of *toddy* in some part of the province. The Emperor had told him that though it was a source of income for the state, it was not in the greater interest of the state and the people. He questioned the authority of the jurist- consult who gave decision in favour of selling and drinking *toddy*. (*Ruq'at-i' Alamgiri*, Kanpur, 1924 (letter No.90) p. 24. but use of wine on medical ground was permissible during Aurangzeb's reign is evident from Manucci's descriptions that Shah Alam's son's were habitual drunkards. Once he (Manucci) sent a bottle of wine to sultan Muizuddin. A spy reported the whole affairs to Aurangzeb. The prince escaped the royal wrath on the plea that the wine was to be given as a medicine to a sick lady (Manucci, *Storia*, II, pp.368-69). It implies that drinking was permissible on medical grounds.

effective, Aurangzeb at first ordered the closure to wine shop in general. He directed the *Kotwal* to make a search for wine sellers among both the Muslims and Hindus and punish them. Besides, the *muhtasibs* (the chief censure) with a large body of subordinates were required to prevent the use of wine; they were also allowed to destroy the pots and pans which were used for beverages and liquor.[1] The permission given to the Christians for manufacturing wine for their use was retained, but they were not allowed to do so in the vicinity of the city. They were ordered, with the exception of physicians and surgeons, to migrate from the imperial capital and settle at a distance of one league from the city. Though they were allowed to prepare and drink wine, they were prevented from selling it. Special guards were appointed to keep a watch on the Christians so that they could not abuse the privileges granted to them with regard to the manufacture and consumption of wine.[2]

While providing much detail about rules and regulations forbidding the use of wine, the contemporary sources do not give much information about the punishment prescribed for those who violated the prohibition. Regarding the

[1] Khafi Khan, *Muntkhab-ul Lubab*, eds. K.D. Ahmad and Haig (Calcutta, 1860-64), II, p. 8; Muhammad Kazim, *Alamgirnama*, ed. Khadim Husain and Abdu-l Hai, *Bibliotheca Indica*, (Calcutta, 1865-73), pp. 391-92; *Waqa'i'Ajmer*, and c., A.D, 1678-80, Ajmer transcript (Ms. Asafiya Library, Hyderabad, 2242), Research Liberary, dept. of History,AMU.,Aligarh) I, p. 183; Manucci, *Storia*, II, pp.4-5.

[2] Manucci, *Storia*, II, p. 324.

users of wine Aurangzeb's penal code merely states that their cases were to be decided by the *Qazi* according to the *shari'at.*[1] Manucci (who has supplied a lot of information about wine drinking) is also silent about the kind of punishment prescribed for the drunkards, though he tells us about the punishment given to the sellers of wine such as imprisonment, beating and imposition of fine or severing one hand one foot.[2] There are, however, some cases recorded in the sources which give an idea of the actual punishment inflicted on the drunkards during the Mughal India. Nine cases of punishment for wine drinking have come to our notice from period with which we are concerned. Most of these cases are related to the state official and in none of these cases punishment was given according to the *shari'at.*

In the first case recorded from Akbar's time, the drunkard was subjected to public exposure (*tashhir*) and imprisonment. Lashkar khan, Mir Bakshi, entered the court in the state of inebriety and acted improperly. On being informed the Emperor ordered that Lashkar Khan be tied to the tail of the horse, and paraded through the streets, and he was to be put in the prison

[1] Khan Ali Muhammad, *Mir'at*, I, p. 282
[2] Manucci, *Storia* , II, pp. 3-4, we are informed by John Fryer, *A New Account of East India and Persia* (I, p. 244) that wine sellers were generally punished with whipping.

afterwards.[1] It was reported to Aurangzeb by Mukhtar Khan, the governor of Khandesh that Ziauddin and Muhammad Hussain had been dismissed from their posts as a punishment for wine drinking. Ziauddin expressed repentance before *Qazi* Muhammad Salih. Some courtiers approached the Emperor with his letter of repentance and requested him to pardon Ziauddin and reinstate him. But their request was not granted.[2] In 1685 Aurangzeb was informed by news writer of Aurangabad that Khwaja Muhhamad, *Daroga-i-bayutat* was a habitual drinker and used to indulge in improper activities. A royal order was issued to the governor that either his rank should be reduced or he should be dismissed and sent to the court.[3] In 1699 it was reported to Aurangzeb from Burhanpur that Abdul Karim Khan used to oppress the people in the state of drunkenness. His rank was reduced from 900/900 to 400/200.[4] Shaikh Nurul Haqq, *muhatahsib*, reported to the Emperor in 1701 that he, in accordance with the royal order, had destroyed the wine manufacturing dens of Abdul Khan and Qarawal Khan and that

---

[1] Abul Fazl, *Akbarnama*, II, p. 364; Shah Nawaz Khan ,(d. 1757), *Ma'asir-ul 'umara*,ed. Molvi Abdur Rahim, 3 vols.,(Calcutta,1888- 91), III, p. 161. according to the latter source, he was released after some time.

[2] Selected documents of Aurangzeb's reign,(ed. Yusuf Hussain, Hydrabad, 1958,p. 106)

[3] Selected documents of Aurangzeb's reign,(ed. Yusuf Hussain, Hydrabad, 1958,p. 162)

[4] *Akhbarat-i Darbar-i Mu' alla*, (imperial news reports, some of which have been published, but a large number of them still remain unpublished) (M.F.No.259), 1701-02, f. 14.

Allah Yar Beg, the nephew of former was resisting his punitive measures. An order was sent for demotion in his rank.[1]

Muhammad Azam complained to the Emperor Aurangzeb against the drinking habit of Sayyed Lal who was a hereditary servant of the Mughals (*khanazads*). He suggested to the Emperor to resume his *jagir* so that this evil may be put down. The Emperor rejected his suggestion and wrote back to him that it was the duty of the *Muhatsib* to take action in such offences. Further, the Emperor directed the *Sadr-us-sudur* to enquire into the matter and submit a detailed report about the actual situation to him.[2] Aurangzeb was enraged to know that Hidayat Kash-i Punjabi, a reporter, had gone to the tomb of Shah Gesu Daraz in a drunken state. He was ordered to be put in chains and presented before him.[3] It is not confirmed as to what action was taken by the Emperor against the reporter. Nural Haq, *Muhatsib*, brought to the notice of the Emperor that wine drinking; gambling and other immoral practices were going on in the territories of Nakuji Beragi, Raja Udit Singh, Khwaja Khan and Inder Singh. The *muhatasib* wanted that some action should be taken against them. They were simply admonished and advised to

---

[1] *Akhbarat*, 1703-1704, f. 99.
[2] *Ahkam-i Alamgiri,* letters and orders collected by 'Inayatullah Khan (d. 1725). I.O. 4071 , 18/27-28.
[3] *Ruqaat*,(letter no.20), p. 71.(Aurangzeb, *Ruq 'at-i Alamgiri*, letters and orders, Irfan Habib, *Agrarian System of Mughal India 1556-1707*, second revised edition, Delhi 1999, p. 481.

abstain from such activities.[1] From the letter of Muhammad Azam, the news writer of Gujarat, Aurangzeb learnt that Muhammad Amin Khan, the governor of the province, had held court while he was in state of intoxication. The governor was informed of this matter by his agent. As the report was wrong the governor ordered the moustaches and beard of the news writer to be pulled out and flung in to the air in the open court. The Emperor came to know of this and commented that the Khan had a very violent temper and had over stepped the limit of his authority, because it was not up to him to punish the news reporter. As for the punishment to the news-writer and governor, the Emperor dismissed the former for supplying wrong information and deprived the latter of the robe of owner at the annual festival of coronation for misusing his authority.[2]

An analysis of the above cases makes it clear that: (a) the punishments awarded in the above cases for drinking wine did not conform to that prescribed by the *shari'at*. (b) there was no uniformity in the penal measures applied in various cases. (c) during the major part of the period concerned wine and intoxicants were forbidden be royal edicts which were applicable to all the subjects – Muslims and non-Muslims alike. The Christians were,

---

[1] *Akhbarat*, 1702-03, f. 104

[2] Inayatullah Khan, *Ahkam-i Alamgiri*, 61/73.

however, granted exemption as special consideration to them.[1] Thus we can say that the matters relating to wine drinking were governed by the state laws.

[1] Tevernier, *Travels in India*, II, pp. 249-250; Bernier, *Travels in the Mughal Empire*, pp. 252-253; Manucci, *Storia*, I, p. 95; II, p. 4.

II

Poverty and crime in Mughal India

Criminologists have generally concluded that poverty and vagrancy are associated with criminality. No doubt, poverty is an important contributing factor for the occurrence of crime. However, this chapter demonstrates that the relationship between crime and poverty is not that simple and straight forward. There are several factors that affect this complex relationship in various ways and so the assumptions that follow from an overly simplistic theory are often inaccurate. For example, the idea that poverty causes crime would imply that all poor people would commit crimes, given the opportunity. This is obviously false; there are many poor people who never commit crimes. Conversely, many economically advantaged individuals do commit crimes. The intuitive assumption that poverty causes crime might also suggest that only criminal acts correlated with poverty would be those resulting in increased money or goods. Yet this is not the case.

A logical off-shoot of the theory that people subjected to impoverished living conditions are more likely to commit crimes might be that criminal behavior is the result of living in these conditions for long periods of time. In

the social disorganization, it is environment that makes criminal behavior more prevalent and less harshly perceived, but it does not explain the more individualized motivations that become factors in leading one to criminal behavior. As per the concept of social disorganization, the root of crime is seen as the environment or social class in which individuals reside.

In this chapter we explore the relation of poverty with crime in Mughal India. It is certainly true that acute poverty, which threatens subsistence, could lead to crimes, riots and social disruption.

Poverty had many faces in Medieval India. Poverty was experienced at many social levels, although the lower classes were prone to life threatening deprivation. Not only day-labourers, small holders and wage earners but also artisans, middle ranking peasants and even the lower nobility were at risk. The following lists indicate broadly the major forces which generated mass impoverishment.

Epidemics and famines were the major causes of poverty and crime. Epidemics were not only a 'symptom of poverty' but also one of the major causes of indigence since they totally disrupted the urban economy. The ban on bringing in outside merchandise (e.g. raw materials) also had an impact on employment and marketing of goods.

Warfare was another major cause of poverty. The negative direct effects of warfare (loss of goods and chattels, death of bread winner, financial ruin by levies and taxes) were less significant that the indirect effects of war which include famine, the spread of disease and subsistence migration.[1]

The sources provide details of the famines and the plagues of 1574 and 1594. In the first instance, the inhabitants of Gujarat, both rich and poor were forced to abandon their homes and fly from the country[2] and in the second, as Nuru-l Hakk relates, men were driven to eat other men, and the streets and roads were blocked with dead bodies, for the removal of which no assistance could be rendered.[3] Plague was indeed a source of terror to the people sufficient alone to paralyze all action.

As many as thirteen famines occurred in between 1614 and 1660. The famine of 1685 is said to have affected the whole of the Deccan.[4] Of apparently greater extent was the famines that occurred in 1630 and 1660. According to Khafi Khan the famine in 1630 not only "prevailed throughout all India but also extended over the whole of Asia.[5] Of latter, it can only be

---

[1] Robert Jutte, *Poverty and Deviance in Early Modern Europe*, (Cambridge university Press, 1994).
[2] Nizamuddin Ahmad Ahmad (1592-93), *Tabaqat-i Akbari*, (lucknow, 1875), II, p. 323.
[3] Shaikh Nurul Hakk., as trans. in Eliot and Dowson, *History of India, as told by Its own Historians, The Muhammadan Period*, (Delhi, first pub: 1867-77, reprint: 1990, 1996, 2001), VI, p.193.
[4] Khafi Khan, *Muntkhab-ul Lubab*, II, p. 322.
[5] Quoted Blair C., *Indian Famines*, 1874, p. 22.

definitely asserted that of all the territories of the empire of Aurangzeb, Bengal and Punjab[1] alone appear to have produced normal crops.

In the first year of the reign of Akbar, there was a great scarcity in Hindustan. In some districts, especially Delhi it reached an alarming height. On some occasions even greater extremes were reached with evidence of, fathers even devouring their own children.[2]

The most vivid description of any famine that has come down to us is that of 1630. It is a story of want and plague and war against which all the energy of Shahjahan was in vain. On the way to Burhanpur, Peter Mundy refers to a "very grievous" famine. One direct result of the shortage was the exodus of people from their village, trying to escape starvation and death. There was widespread lawlessness, and starvation had led to a huge increase in criminal activities. Bands of half-starved outlaws roamed about the roads and streets killing people for more than a piece of bread.[3]

Near Chaksu in March 1633, Peter Mundy mentioned the famine and theft of an Ox from his *caravan* because of famine.[4] When he reached Surat in 1633

---

[1] Khafi Khan, *Muntkhab-ul Lubab,* II, p. 123.
[2] Abul Fazl, *Akbarnama,* II, p. 42.
[3] Peter Mundy, *Travels*, Vol. II,' *Travels in Asia,* 1630-34', Hakluyt Society, second series, (London, 1914), II, p. XXII.
[4] Ibid, pp. LXVII-LXVIII.

famine was followed by a severe epidemic. Women were seen to roast their children; men travelling in the way were kidnapped by bands of criminals to be eaten by them. Peter Mundy relates "the men and women were driven to that extremities for want of food that they sold their children for 12d, 6d and (3?) Pence a piece. Yea and to give them away to any that would take them. Slaves can be brought for 4as to 8as per piece and good once for 1 Rs. per piece. Life was offered for a loaf but none would buy; rank was to be sold for a cake, but none cared for it; the ever-bounteous hand was stretched out to beg for food; and the feet which had always trodden the way of contentment walked about in search of substance."[1] People lamented on the streets[2] for want of a morsel of food, often worth its weight in gold and many mothers were rendered destitute and having no means of nourishing their children exposed them for sale in the public places of the city.[3] Owing to starvation "many died unwept and unsung and the river Jhelum became a common graveyard for all of them."[4] The great famine of 1745-46 alone took a heavy toll of thirty eight percent of the Valley's population,[5] of which

---

[1] Abdul Hamid Lahori, *Padshahnama*, I, p.362.
[2] Birbal Kachru, *Majmu' at Tawarikh*, (c. 1835), Research and Publication Department, Srinagar, ff 184a-85b, 236a-37b.
[3] This pertains to the year 1597: Father Pierre Du Jarric, *Akbar and Jesuites: An Account of the Jesuites Mission to the Court of Akbar,* Eng. trans., C.H. Payne, (New Delhi, 1979), pp.77-78.
[4] Hasan Shah, *Ta'rikh- i Hasan,* Urdu trans. by Moulvi Ibrahim, *Ta'rikh-i Kashmir,* (Srinagar, 1957), II, pp. 428-29.
[5] Birbal Kachru , *Majmu' at Tawarikh* , ff 184a-85b; Hasan Shah, *Ta'rikh- i Hasan,* Urdu trans., II, pp 428-29.

we have no precise estimates; that the city of Srinagar was said to have the population of hundred fifty to two hundred thousand inhabitants.[1]

The peasantry too was exposed to great stains such as damage standing crops,[2] perished food, fodder and livestock, shrunken yields and reduced crop areas. Due to agricultural recession, rural population contracted and the villages presented a desolate look.[3] Left with no immediate means of livelihood and surrounded by the dying and the dead everywhere, the famine affected people, as historical evidence shows, hurried to the neighbouring states for survival.[4] The great famine of 1642-43, it was said, drew thirty thousand starving people to Lahore. According to a chronicle, the dreaded famine of 1745-46 forced one-third of the valley's population to cross the passes to Punjab. Those who still stayed in the valley took to violence which is exemplified by the raid on and the endeavor to set ablaze in 1643 the dwelling of one Pundit Mahadev, the then *Diwan*, in Srinagar locality. Similar incidents of popular uprising which led to the killing of *Mir 'adl* and

---

[1] Mount Stuart Elphinstone, *An account of the Kingdom of Cabul and its Dependencies in Persia, Tartary and India,* (London, 1839), II, p.238.

[2] Abdul Hamid Lahori, *Padshahnama*, II, pp.282-83; Sadiq Khan, *Ta'rikh- i-Shahjahani*, (British Museum, Centre of Advanced Studies, Department of History, Aligarh) Or. 174, Rotograph no. 39, ff. 10b, 53b-54b, 98ab; Khafi Khan, *Muntkhab-ul Lubab*, *Bibliotheca Indica*, (Calcutta, 1868), Urdu trans., Mehmud Ahmad Farooqi, (Karachi, 1963), II, p.93.

[3] See, M.A.Kaw, "Some Features of the Agrarian Crisis in Kashmir, 1753-1819, '*Proceedings of the Indian History Congress'*, 1986, Srinagar.

[4] Abdul Hamid Lahori, *Padshahnama*, II, pp. 282-83; Sadiq Khan, *Ta'rikh- i-Shahjahani*, Or. 167, f.52b; Or.167, f.52b; Or.174,f,96a; Birbal Kachru, *Majmu' at Tawarikh* , ff. 165ab; 4 Hasan Shah, *Ta'rikh- i Hasan,* Urdu trans., II, pp.428-29.

daroga-i-adalat and setting ablaze the house of the grain dealers, occurred during the deputy govern ship of Ihtiram Khan (1731-32). Such was the severe and cascading impact of famines that it lasted for years together.[1]

During famines both Hindu and Muslim families sold their children. This sparked off a controversy among the *ulama*, who saw this as a criminal act. But, even selling children was considered a crime, there was a certain tolerance of the practice during periods of famines and scarifies.

In the early part of Shahjahan's reign a severe famine caused by failure of rain affected Golconda, Ahmednagar, Gujarat and some parts of Malwa. 'Life' says Abdul Hamid Lahori 'was offered for a loaf, dogs flesh was sold for goat's flesh, and pounded bones of the dead were mixed with flour and sold. Men began to devour each other and flesh of son was preferred to his love.'[2] The common people fed on the seeds of the thorny *acacia*, on dry herbage of the forest and on the hides of the cattle which the wealthy slaughter and sell.[3]

---

[1] Walter R. Lawrence, *The Valley of Kashmir*, (Oxford, 1895), p. 213.
[2] Abdul Hamid Lahori, *Padshahnama*, I, pp.362-64.
[3] Abdul Qadir Badauni , *Muntakhab-ut Tawarikh,* I, p. 413.

The scarcity of grain and fodder in Deccan at the time of siege of Golconda in 1687 was so great that even rich men were reduced to beggary, while the condition of the poor baffled description.

Parts of Northern India, particularly the neighbourhood of Delhi, were affected by a severe scarcity in 1555-56, and the historian Abdul Qadir Badauni with his own eyes witnessed the fact that men ate their own kind and appearance of the famished sufferers was so hideous that one could scarcely look upon them.[1] Some localized famines occurred in the reign of Akbar. In 1573-74, Gujarat suffered for six months and 'the inhabitants, rich and poor, fled the country and were scattered abroad.[2]

Akbar laid down the foundations of embankment, opened alms houses and free kitchens in cities, and in order to provide employment, he recruited more soldiers in the army.[3] Between 1595-1598, another famine caused by failure of rain, affected Northern India, specially Kashmir and Lahore. Akbar made arrangements for free distribution of food, opened twelve kitchens in Srinagar, where 80,000 people were fed. He started building a

---

[1] Abdul Qadir Badauni , *Muntakhab-ut Tawarikh,* I, p. 413; V. A. Smith, *Akbar the Great Mogul,* 1542-1605, (Oxford, 1917), p. 397.
[2] Abdul Qadir Badauni , *Muntakhab-ut Tawarikh,* II, p. 186; Khafi Khan, *Muntkhab-ul Lubab,* II, p. 323; V.A. Smith, *Akbar the Great Mogul, 1542-1605,* pp. 397-98.
[3] Abul Fazl, *Akbarnama,* III, LXXIV, p. 625.

fort to provide work to the famine stricken people and appointed Shaikh Farid Bukhari as special famine officer.

Akbar wanted to make permanent administrative arrangements to fight famines. He charged and collected, collected and stored a *Dahseri* tax of ten seers per *bigha* in kind from tilled land as famine insurance. This was used to provide fodder for Government livestock, seed for cultivators, and in times of famine, grain from these stores was sold at cheap rates. Charity houses were established in different parts of the Empire under the supervision of a *daroga* and in 1583 three separate kitchens for Hindus, Muslims and *Jogis* respectively were started, where free food was distributed to the poor and needy. More kitchens were opened in times of famines, 'indigent persons and beggars were handed over to rich men to be fed', and able officers were appointed in every districts to render relief to the poor people.[1]

In 1614-15, a local famine affected the Punjab as far as Delhi and South India suffered considerably due to the prevalence.

---

[1] Smith, *Akbar the Great Mogul*, pp. 267,397-99.

This was followed by another famine, which affected the Coromandal Coast and Vijay Nagar in 1618 to 1619.[1]

In the early part of Shahjahan's reign (1630-31) a severe famine caused by failure of rain affected Golconda, Ahmednagar, Gujarat and some parts of Malwa. "Life", says Abdul Hamid Lahori, 'was offered for a loaf, dogs flesh was sold for goat's flesh, and pounded bones of the dead were mixed with flour and sold.'

The Emperor established soup kitchens and alms houses for the benefit of the poor and destitute. 'Every Monday, 5000 rupees were distributed among the poor of Burhanpur, and remissions on a large scale were made in Ahmedabad.' Prohibitive prices of food grains affected the poor people, and English merchants are reported to have closed all their factories in the Deccan except the one at Surat. The revenue, amounting to about seventy lakhs of rupees, was remitted, and similar remissions were granted by the state. Some years later, according the Dutch factors, a minor famine affected Golkunda. In 1641, heavy rainfall in Kashmir resulted in loss of *Kharif* crops and consequent scarcity, due to which about fifty thousand people migrated to Lahore. They were given shelter under the walls of the palace.

---

[1] Radhakamal Mukerji, 'The Economic History of India 1600-1800', (published in *JUPHS,* XIV, 1934, reprinted: Allahabad, 1967), p. 17.

One lakh of Rupee were distributed among them for general expenses, and 200 rupee worth of victuals was distributed daily as long as they remained in Lahore.[1] In addition, a sum of 3000 rupees was sent to Tarbiyat Khan for distribution in Kashmir amongst those who could not come to Lahore, with instruction to open five kitchens for the distributions of soup and bread, for which food worth 100 rupee was provided daily.[2] On the failure of Tarbiayat khan, Zafar khan, with a further grant of 20000 rupees, was sent to replace him. Five years later (1646), heavy rainfall affected the Punjab with another scarcity. Ten kitchens were opened by the government and Saiyid Jalal was deputed to the distribute 10000 rupees among the poor and destitute. Children who had been sold by parents were purchased by the government and restored to their parents. Another sum of 30000 rupee was sanctioned by Shahjahan in February 1647 for relief measures in the Punjab.[3] The government also tried to improve agriculture by the construction of canals and paid compensation for the field destroyed by the march of armies.[4] In the following year, rains failed in Rajputana, and 1650 Oudh and Gujarat were affected.

---

[1] According the Dr Saran: P. Saran, *Studies in Medieval History*, (Delhi, 1952), pp. 432-433, total revenue was 80 crores of *Dams*.
[2] Abdul Hamid Lahori, *Padshahnama*, II, pp. 282-283.
[3] Sadiq Khan, *Ta'rikh- i-Shahjahani*, f. 98a.
[4] Abdul Hamid Lahori, *Padshahnama*, II, p. 163.

According to Manucci, in the Dakhin provinces, there was no rain from 1702 to 1704, but instead plague prevailed. In these two years there expired over two millions of souls; fathers, compelled by hunger, offering to sell their children for a quarter to half a rupee, and yet forced to go without food, finding no one to buy them.[1]

The practice of selling children was common in India and was of an old practice. It is interesting to note that the issue of sale of children by parents involved a debate as early as 1556-57, in which theologians like Sheikh Bahauddin and others at Agra issued a declaration allowing a person to sell his child in conditions of acute hunger. It was significantly, opposed by Shaikh Mubarak, Mian Hatim and other leading theologians.[2]

Akbar had been realistic enough to have legalized the sale of children during famines ordering in 1594 that in time of acute hunger and distress, the parents can sell their children, but when they recover the ability to do so they may repay the amount and get their children freed from the yoke of slavery.[3] Slaves, naturally, were sold real cheap in these times. In Gujarat often hit by famines witnessed such sale of children by poverty-stricken parents

---

[1] Manucci, *Storia*, iv, p. 91.
[2] Abdul Qadir Badauni, *Muntakhab-ut Tawarikh,* III, pp. 66-69.
[3] *Masalik al- absar*, pp. 131, 147-148, 230-231.

particularly in cities of Cambay and Surat. We hear from Pietro Della Valle, a Dutch traveler (1623-24) that in Surat, families employed numerous slaves even those of mean fortune as their cost of purchase and subsistence was very cheap.[1]

Devastating famine was recurrent in India until the beginning of the twentieth century. Cannibalism, slavery and appalling mortality were the normal features of famine, showing the complete lack of economic surplus of the masses and apathy or helplessness of administration.

Adequate data for assessing the standard of living of the peasantry in Mughal India are not available. The lower classes, in particular, the peasants, petty shopkeepers, skilled worker, peons, servants and slaves lived at subsistence of existence. The contemporary evidence of both foreign and Indian chronicles is clear and precise on this point. According to Pelsaert, "they have nothing but the *khichdi* made of green pulse (which probably indicated moth) mixed with rice over a little fire until the moisture has evaporated and eaten with butter in the evening, in the daytime they munch a little parched pulse or other grain which they say suffice for their lean

[1] Pietro Della Valle, *The Travels of Pietro Della Valle in India, 1623-24,* trans. Edward Grey, 2 vols.,(Hakluyt Society, London, 1892), I, p. 42.

stomachs."[1] John Fryer[2] (1673-1681) and Thevenot describes *khichdi* as the food of the poor.

According to the Tavernier meat was rarely consumed by the peasants.[3] Among the sweets the people mostly relished unrefined sugar or *gur* which was cheap and easily available to them in villages and towns.[4]

Except the other climatic situation for example famine, epidemics, diseases; Mughal land revenue system was one of the major causes of the poverty in Mughal India. The revenue demand was designed ideally to approximate to the surplus produce, leaving the peasants just the barest minimum needed for subsistence. Pelsaert tells us about the land revenue assignments that, "So much is wrung from the peasants that even dry bread is scarcely left to fill their stomachs."[5]

European travelers Hawkins (1611)[6] and Manrique[7] (1640-1641) describe how the *jagirdar*, whose assignment was liable to be transferred any

---

[1] Francisco Pelsaert, '*Remonstrantie*, c. 1627, trans. W.H. Moreland and Geyl, *Jahangir's India*, (Cambridge, 1925), pp. 60-61.
[2] John Fryer, *A New Account of East India and Persia,* II, p. 119.
[3] Tavernier, *Travels in India,* I, pp. 38, 238.
[4] Dadu, *Dadu Dayal Ki Bani*, ed., Chandrika Prasad Tripathi, (Ajmer, 1964), pp. 69-78; Tavenier, *Travels in India*, I p. 238.
[5] Francisco Pelsaert, *Remonstrantie*, (c. 1627), trans. W.H. Moreland and Geyl, *Jahangir's India* (Cambridge, 1925), p. 54.
[6] William Foster, *Early Travels in India* 1583-1619 (Bombay, 1968), p. 114.
[7] Fray Sebastian Manrique, *Travels*, 1629-43, transl. C.E. Luard, Hakluyt Society, (London, 1927), II, p. 272.

moment and who never held the same *jagir* for more than 3-4 years had no interest in following a far sighted policy of agricultural development. On the other hand, his personal interest would sanction any act of oppression that conferred an immediate benefit upon him, even if it ruined the peasantry and so destroyed the revenue –paying capacity of the area for the long time.[1] According to Manrique when the peasants could not pay the revenue they were beaten unmercifully and maltreated.[2] Frequently, therefore, the peasants were compelled to sell their women, children and cattle in order to meet the revenue demand.[3] "Villages", we are told , "which owning to some shortage of produce , are unable to pay the full amount of the revenue–far, are made prize , so to speak ,by their masters and governors and wives and children sold on the pretext of a charge of rebellion.[4] They (the peasants) are carried off ,attached to heavy iron chains , to various markets and fairs (to be sold), with their poor , unhappy wives behind them carrying small children in their arms, all crying and lamenting their evil plight."[5]

The bulk of the subjects lined on the verge of subsistence, and even slight setback in their incomes, could ruin them and their families. Famines,

---

[1] Irfan Habib, *Agrarian system*, (Delhi, 1963) pp. 367-368; Manucci, *Storia*, II, pp. 4-5.
[2] Manrique, *Travels*, II, p. 272.
[3] Badauni , *Muntakhab-ut Tawarikh*, II, p. 189.
[4] Pelsaert, *Remonstrantie*, p. 47.
[5] Manrique, *Travels*, p. 272; Bernier, *Travels in the Mughal Empire*, p. 205.

droughts and oppressive *jagirdars* usually pushed the poor people into the crisis of subsistence. The crisis of subsistence did encourage crimes, forcing people to take to grain riots, robberies, arson and murders. The hapless subjects were also forces to take to crimes, which affected their own existence, as human beings. They were, as we saw, forced to sell their children and wives for their subsistence. Selling children was a crime under *shari 'a*, but was tolerated by the Mughal state during periods of famines and droughts, when the threats to subsistence sidelined the moral issues.

In southern India, with many parts of it harried by more than a century of warfare, the peasantry had many enemies to dread besides the regular fighters on both sides. The Mughal soldiers on their march often trod down the crops and though the Emperor had a special body of officers for compensating the peasants for this loss (*Paimali-i-Zarait*), his financial difficulties led to the neglect of this humane rule. The worst oppressors of the peasants, however, were the tail of the army the vast nondescript horde of servants, day laborers *dervishes* and other vagrants who followed Aurangzeb's moving city of tents in the hope of picking up crimps where such a crowd had gathered.

The *banjaras* or wandering grain dealers who moved in bodies sometimes of 5000 men each with his couple of bullock loaded with grain were so strong in their strength of numbers and contempt of the petty officers of government that they sometimes looted the people on the wayside and fed their cattle on the crops in the fields, with impunity. Even the royal messengers (Called *mewrahs* in Gujarat) who carried government letters, reports of spies and baskets of fruits for presentation to the Emperor used to rob the people of the villages they passed by sometimes under the pretext of making good the losses in the fruits they carried.[1] The Emperor's repeated orders against this kind of iniquity were of no avail.[2]

Then, there were the laden-stewards of rival *jagirdars*-the incoming and the outgoing of the same village. Under the plea of the never-to be satisfied arrears of revenue, the late *jagirdar's* collector tried to squeeze everything out of the peasantry before he left, and even continued to stay in the village for some months after the arrival of his successor.

If the poor subjects were forced to take to crimes for subsistence, the elite officers took to criminal ways to exploit them. A Mughal officer, Mirza

---

[1] J. Sarkar, *Mughal Administration*, (Calcutta, 1920), Ch.5.
[2] Khan, Ali Muhammad, *Mir'at-i Ahmadi*, p. 304.

Tafakhkhur used to sally forth from his mansion in Delhi with his ruffians, plunder the shops in the bazaar, and kidnap women; there was neither *qazi* to punish him nor police to prevent him.[1]

Oppressed by the nobles, the peasants often revolted against the state; even where they were prevented from doing so, they did resist their oppressors. Babur informs us in his *Bauburnama* that in many places in Hindustan, the plain was covered by thorny brushwood to such a degree that the people of the *parganas,* relying on the forest cover took shelter in them, and trusting their inaccessible situation continued in a state of revolt refusing to pay their taxes.[2] Given the high incidence of revenue realization, the peasants were always on the lookout for convenient opportunity to revolt against the state. Peasant revolts were clearly not criminal activities, but simply strategies of subsistence. It is another matter though that in the Mughal official chronicles, they were treated as criminal acts. Sir Jadu Nath Sarkar rightly points out that the Indian peasant's had the habitual reluctance to pay revenues.[3] European travelers in India have noticed how the *ryot* was averse

[1] *Ahkam-i Alamgiri*, letters and orders collected by 'Inayatullah Khan' (d. 1725). Section 48, Author in *Ma'asir ul-Umara*, I, 320.
[2] *Tuzuk –i-Baburi*, in Elliot and Dowson , *The History of India as Told by Its Own Historians*, iv, p. 222.
[3] Jadunath Sarkar, *Mughal Administration*, 1935 ed, p. 76;

to paying even his legitimate rent and that force had to be employed to get from him the dues of the state.[1]

The chief struggle in Mughal Indian then was between the state machinery and the poor subjects. Let me cite a few such cases here, dismissed in imperial archives as criminal activities. An uprising near Delhi in 1610 is dismissed by the Emperor in his memoirs in one solitary sentence. On Monday, the 24th, Mu'azzam Khan was dispatched to Delhi to punish the rebels and disaffected of that neighborhood.[2] Equally casual is his treatment of a peasant uprising two years later in Thatta: "I sent Abdu-r-Razzaq, the *bakhshi* of the palace (darkhana) to settle the country of Thatta (Sind) until a Sardar is appointed who could conciliate the soldiery and the cultivators and so bring the province into order."[3] It is clear that the rulers expected to find, and probably did find, little trouble in suppressing such outbreaks. However, a rising in the Do'ab was apparently serious enough to call forth extreme measures, and apparently annoyed Jahangir enough to make him vindictive, though he did still pass over the incident in a sentence: "I ordered the Khankhanan to have a *jagir* in the *Suba* of Agra in the *sarkars* of Qanauj and

[1] Jadunath Sarkar, *Mughal Administration*, p. 76; Manucci, *Storia*, II, p. 450.
[2] Jahangir (1624), *Tuzuk*, Syud Ahmud (Ghazipur and Aligarh, 1863-64) or *Memories of Jahangir*, trans, A. Rogers ed. H. Beveridge, (London. 1904-14), I, p. 171.
[3] Ibid. I, p. 225.

Kalpi, that he might inflict condign punishment on the rebels of that region and exterminate them (pull them out by the roots)."[1]

The royal wrath and contempt, however, were roused in earnest by our next instance which was too formidable to be dismissed summarily by the state. This insurrection (1610) was led by a lower-class Muslim who impersonated the popular hero Khusraw, gathered about himself the discontented elements of the town and district poor, and seizing an advantageous opportunity when the governor was absent from the capital ousted the only upper class representatives of authority, appropriated the treasury and proceeded to dominate the city. After the success of his coup, his lower class followers aligned themselves with him. They even organized a minor army from the upper class army advancing under the irate governor. Of course they quickly lost the ensuing encounter, some miles from the city within the fort, on the other hand, they were able to hold out for a considerable time; it was only with difficulty and after suffering several casualties including 30 dead, that the imperial troops were able to overcome these 'commoners' and restore order.

[1] Ibid., I, p.199.

Jahangir was understandably furious, and his reaction was severe. He refers to the leader of this desperate venture, whose name was Qutb, as, "an unknown man-------a mischievous and seditious fellow---------with the look of a dervish and the clothes of a beggar."[1] Qutb was summarily executed and his followers among the plebeians were executed in large numbers.

There is another incident reported in Jahangir's *Tuzuk* of the villagers rising near Agra in 1618. In one of the villages in Agra, he says, the people rose to assist a certain fugitive from the court Subhan Quli, who had appeared among them and apparently 'incited' them. When a detachment of the upper class troops, however, arrived to take the matter in hand, the peasants changed their minds and gave the fugitive up.[2]

The reign of Aurangzeb presents instances of lower class uprisings which were really formidable. In the *Jat* revolt of 1669,[3] thousands of peasants under the leadership of one Gokla (a small landholder), rose and overpowered the local military police killing the commander and routing his forces. They then began to loot the neighbourhood which presumably the landlords and the upper classes, as well. The peasantry in neighbouring areas

---

[1] Jahangir (1624), *Tuzuk*, I, pp. 173, 175.
[2] Ibid.
[3] see Jadunath Sarkar: *History of Aurangzeb*, III, pp. 334ff.

also rose in revolt against their exploiters, threw off the government yoke and remained in control of the situation for almost a year Aurangzeb of course sent a big force against them, but they resisted long and bitterly. In the final result obviously the upper classes won out, but only after the fierce struggle from these peasants. And the havoc wrought on both sides was terrifying. The peasant lost 5000 dead and 7000 captured. The rulers also lost 4000 dead.

The *jat* revolt was followed a couple of years later by a rising of some lower class people in Narnawl: the famous *Satnami* outbreak 1672.This was a desperate class struggle emotionally intensified by religious valuations. The persons involved were apparently small townsmen petty traders and workers either property less proletariat or men with a very small professional property with perhaps some peasants as well. Musta'id Khan describes them as carpenters, sweepers' tanners and other ignoble beings.[1] Khafi Khan says that they were 'householders' who carry on agriculture and trade though their trade was on a small scale.[2] One contemporary historian charges them with immoral practices, but that kind of accusation is the common fate of isolated sects, and probably means no more in this case than that their social

---

[1] Saqi Musta'id Khan,(1710-11), *Ma'asir-i- Alamgiri*, ed.Agha Ahmad Ali (Calcutta, 1970-73), p. 114.
[2] Khafi Khan, *Muntakhab ul-Lubab*, VII, p. 252.

customs were different from those generally accepted in society; they, for instance, ate pork and dog meat.[1] Khafi Khan pictures them as law abiding citizens so long as they were not molested: "They are not allowed to acquire wealth in any but a lawful calling. If anyone attempts to wrong or oppress them by force or by exercise of authority they will not endure it."[2] It is interesting also to note in as much as their revolt is usually dismissed as a Hindu Muslim conflict that they made no distinction between Hindus and Musalmans.'[3]

The town of Narnawl fell into the hands of the *Satnamis*. They proceeded to collect the taxes from the villages and established posts of their own.[4] In fact, in the contemporary source material no charge of looting or disorder is laid against the *Satnami* brotherhood or of unprovoked violence. The uprising was short-lived, but during the time that were in revolt, the grain supply at Delhi was becoming scanty. This reminds us how dependent the empire was on its control and exploitation of the villages. The Emperor fitted out a very formidable army and resolved to exterminate the insurgents.[5] The battle was fierce and devastating as class violence

---

[1] Ishwar Das Nagar, quoted in Sarkar, *History of Aurangzeb*, III, p. 337.
[2] Khafi Khan, in Elliot and Dowson, *History of India.*
[3] Ishwar Das Nagar, quoted in Sarkar, *History of Aurangzeb.*
4 Khafi Khan, *Muntakhab ul-Lubab*, in Elliot and Dowson, *History of India.*
5 Musta'idd Khan, Elliot Dowson, *History of India*, VII, p. 186.

habitually is. In the end, of course, the upper class won; it is not so much that the *Satnamis* were suppressed as that they were wiped out. Khafi Khan's version is, "At length-seven thousands of them were killed and the rest were put to flight so that the outbreak was quelled."[1]

It has already been noted that as early as the time of Akbar the *Bhattis* were known to have been raiders into the territory of the raja of Bikaner.[2] The reigns of all subsequent great Mughals witnessed these marauding by the *Bhattis* into the neighbouring territories.[3] Most explicit, however, is Manucci's description of the *Bhattis* of Lakhi Jangal, when he informs us that they could place in the field six thousand cavalry and much infantry. "These men", he says, "are great thieves and plunderers of the roads and villages."[4] Later source, too, suggest that the *Bhattis* continued to be known as thieves till more modern times and this was probably, a method of meeting their non pastoral requirements.[5] Another tribe of Punjab about which we find similar evidence is that of the *Jats* who, Manucci says were

[1] Khafi Khan, *Muntakhab ul-Lubab*, Elliot and Dowson, ibid, VII, p. 295 f.
[2] L.P. Tessitori, Bardic and Historical Survey of Rajputana, p. 247, Though only one instance is given here these raids of the *Bhattis* were, probably, a common feature.
[3] This seems to have continues even after the great Mughals. 'Robbery' is reported to be one of the means of 'livelihood' of the *Bhattis*. See Shah Nawaz Khan, *The Ma'asir-ul-Umara*, H. Beveridge, tr. (Calcutta, 1911-41 and 1952), I, p.467.
[4] Manucci, *Storia* , II, pp. 428, 430. Their raids seem to be mainly for essential commodities. The region which they inhabited does not appear to have been involved to any great extent in trade or manufacture, and it was unlikely that they were marauding for high quality goods.
[5] Shah Nawaz Khan, *The Ma'asir-ul-umara,* II, p, 1029. In the biography of Zakariya Khan, he states that one of this noble's victories was over: Jang Panah of the *Bhatti* caste, who was a sedition monger and held sway from Hassan Abdal to the Banks of the Ravi.

forever plundering the king's territories.[1] This suggests that even in medieval times they obtained their essential non- pastoral goods through periodic raids into sedentary society.

About the *Khattars* residing near Attock in the north-west, we learn that Jahangir, while encamped at the village of Ahrohi (near Attock fort), was approached by its inhabitants who complained against the *Khattars* who practiced robberies and decoities, etc.[2]The other tribes which are mentioned as practicing criminal ways are *Lakhi, Jangaland* and *Dogars*. It should come as no surprise to be told by a contemporary writer that these tribals were notorious for highway robbery and that on account of the inhospitable nature of the terrain that they inhabited .They usually escaped unpunished.[3]Another tribe of marauding pastoralists may possibly have been the *kharrals*. Though we do not have any contemporary evidence to support this, their social organization as recently as the late nineteenth century is a

---

[1] Manucci, *Storia,* II, p. 428.

[2] Shah Nawaz Khan, *The Ma'asir-ul-umara,* II, p, 1014. It is further noted that Zafar Khan was granted Attock as fief in place of Ahmed Beg Khan and he was ordered that the *Khattars* should by the time of the return of the Emperor, be removed to Lahore, and that their headmen should be imprisoned and whatever they had taken from anyone restored'. See also H.A. Rose, *Glossary of Tribes and Castes of the Punjab and the North-West Frontier Province* (Patiala, reprint 1970), I, pp. 532-4 Regarding the *Khattars* the glossary quotes Col. Cracroft who says the *Khattars* enjoy an horrid notoriety in regard to crime. Their tact has always been one in which heavy crime has flourished.

[3] Sujan Rai Bhandari, *Khulasat-ut Tawarikh* (Delhi, 1918), p. 63 supporting that the *Dogars* like *Gujars* and *Naipals* are great thieves and prefer pasturing cattle to cultivating. He further notes that The *Dogars* of Lahore and Firozpur bear the worst reputation. About the Wattus it is noted that the tribe was formerly almost purely pastoral and as turbulent and as great marauders as other pastoral tribes of the neighbourhood.

likely indicator of their earlier condition.[1] This last method of fulfilling non pastoral requirements though adopted by many of the tribes often placed them in direct confrontation with the powerful Mughal state apparatus the influence of which combined with expanding agriculture to encroach upon their traditional life style.

Widespread agrarian uprising causing and accelerating the decline of Mughal imperial authority took place in different regions of the empire in the early eighteenth century.

Not all of these groups rose against the Mughal. But the *zamindars* who took to armed resistance posed a serious threat to imperial power in the region. Imperial campaigns against them were often led by *faujdars* (area commandants) of the *sarkars* and not infrequently by the *subadars* (provincial governors) with heavy artillery to break their fortresses and armies sometimes exceeding 10,000 horsemen.[2]The governors were given

[1] See H.A. Rose, *Glossary of Tribes and Castes of the Punjab and the North-West Frontier Province*, (Patiala, reprint 1979) II, pp. 495-6. It is noted that 'the *Kharrals* have ever been notorious.' Further supporting the argument that their tribal and pastoral system of organization survived well into the nineteenth century is the observation that the *Kharrals* were being deprived of the refuge they sought after plunder, on account of the extension of cultivation into jungle areas.

[2] Farrukh Siyar (FS), *Akhbarat-i Darbar-i Mu'alla (Akhbarat)*, (imperial news reports, some of which have been published, but large number of them still remain unpublished), Micro films of the National Library transcripts are available at the Center of Advanced Study in History, Aligarh, 1715-1716., Sitamau Transcripts pp 22 and 143 for Mughal expeditions against the *Zamindars* under the governor and the *faujdar* in Banaras region and Awadh. See also *Aja' ib u'l- Afaq*, British Museum MS, Or. 1776, f. 35 for the governor of Awadh, Chhabele Ram's letter to the Emperor, Farrukh Siyar asking for additional arms and ammunitions from the centre to meet the threat from the *zamindars* to the provincial administration.

additional powers sometimes unprecedented, to deal effectively with the *zamindar* revolts. In certain cases, additional offices were instituted with a view to absorbing leaders of the dominant local communities in the administration.[1]In 1708 the governor of Awadh resigned protesting among other things against the inadequate authority he was given to encounter the threat from recalcitrant *zamindars*.[2]

In a number of cases imperial campaigns were hardly able to force the rebels to submit. On 8 November 1709, for instance, a *zamindar* of tappa (an administrative division) Faridnagar in *pargana* Mughalpur of Moradabad refused to pay the revenue and rose in arms against the Mughals. The *faujdar* led an expedition against the *zamindar* and the campaign was carried out successfully. In August 1714 the same *zamindar* was reported to have again created 'Disturbances in the *jagir* (revenue assignment) *mahals* of *tehsil pargana*.[3]In another instance Madar Singh, a leading Rajput refractory *zamindar* of the region, invaded and devastated the villages of different *jagirmahals* several times between 1710 and 1715.[4] The case of the

[1] See M. Alam, 'The Mughal Centre and the *Subas* of Awadh and the Punjab, 1707-1748', unpublished ph.D dissertation (Jawaharlal Nehru University, 1977), chs 2 and 3.
[2] Rustam 'Ali Shahabadi, *Tarikh-i Hindi*, Charles Rieu, Catalogue of the Persian Manuscripts in the British Museum, 3 vols,(London, 1879, 1881, 1883),(see as Rieu further) III 909a, Or. 1628, p. 217.
[3] *Akhbarat,* Bahadur Shah (BS), (1709-1710), in the volume titled *Akhbarat-i Aurangzeb*, I, p. 23; FS, (1715-16), II, p. 41.
[4] Ibid FS, (1715-16), pp. 78, 170; (1717-18), I, p.152

Baiswara *zamindars* in Awadh is yet another illustration of the magnitude of rural resistance against the Mughals in north India. A number of Baiswara *parganas* had been disturbed by *zamindar* revolts since the late seventeenth century. By the second decade of the eighteenth century the Bais had begun to offer more organized resistance against the imperial power. In 1714, although they had to submit to the Mughals under the command of the governor, Chhabele Ram, but their submission was only temporary. Within a year and a half the Bais *Zamindars* were again mobilized by their leaders Mardan Singh of Donda Khera and Amar Singh of Jagatpur to show a much more effective strength against the Mughals.[1] In another case from Awadh repeated military expeditions under the command of the *subadars* are reported to have been launched against the Rajputs of *sarkar* Khairabad.[2] How the problem persisted until some arrangement was made with the rebels is further illustrated from the case of the *zamindar* of Tiloi in *sarkar* Awadh. In March 1715 a military campaign against the *zamindar* was commanded by no less a person than the nephew of the then governor, Girdhar Bahadur, who also became government of the province in 1718. Again in 1716 the

---

[1] Ibid, FS, (1716-18), I, p. 121; *Aja' ib u'l- Afaq*, British Museum f. 18b. See also FS, (1714-15), II, pp. 201, (1715-16), II, p. 98 for similar instances.

[2] *Aja' ib u'l- Afaq*; f. 36a; Saiyid Muhammad Bilgrami, *Tabsirat un-Nazirin*, Aligarh MS, *Farsiya Akhbar*, 204, f. 55a.

zamindar refused to pay the revenue to the local agent of the *jagirdar* (revenue assignee). The governor then sent another detachment to Tiloi.[1]

It is known that *zamindars* customarily had their own armed contingents. However, the strength that the *zamindars* achieved through their links with peasants was often impaired by internal social conditions.

In 1711, an Afghan *zamindar* of Hasanpur attached and ravaged the villages in the suburbs of Badaon with an army of over 2000.[2] In another instance, the villages around Bareilly and Moradabad are reported to have been devastated by a Rajput *zamindar* of Pargana Rajpur.[3] Sometimes those *chaudhuris* (village headmen) and *qanungos* (revenue officials) who were still with the Mughals were the targets of the rebels, and when they could not collect money and valuables from them they would capture some of the *zamindars* along with the animals and run off, some cases from Awadh show the peasants and cultivators having suffered at the hands of rebels.[4] According to one tradition, a major advantage that the Bais *zamindar* took of their increasing strength in Baiswara was the extortion of a higher share

---

[1] *Akhbarat* FS, (1716-17), I, p.7; and (1717-18)., II, p. 122 ,the *zamindar* of Tiloi continued to be a major source of disturbance until about 1742 when Safdar jang finally reconciled him by conceding him some military and administrative authority over his *zamindari.*

[2] Ibid., (BS, 1711-12)., p. 421

[3] Ibid., FS, (1716-17)., 1, p. 24

[4] Shivdas Lakhnawi, *Shahnama-i Munawwar Kalam* (Shivdas), Rieu, I, 274 a, Or. 26, ff. 72b-73a.

from the peasants.[1] In October 1715 three such *zamindari* disturbances were reported from the Banaras region in which local people and not Mughal officials were victims of the rebel fury. On 10th October 1715 one Raja Ram, the *zamindar* of Saminpur, together with the *zamindar* of *pargana* Bhagwant, invaded and killed the *zamindar* and the *ri'aya* (peasants) of Bahramganj about four miles from Chunar. The *qila'dar* (fort commandant) of Chunar was reportedly too scared to come out and plundered by the armed bands of a *zamindar*. On 30th October, Gaharwar Rajput *zamindars* of Sekar, in Banaras *sarkar*, were reported to have invaded, besieged and devastated the villages of *pargana* Mawai in *sarkar* Chunar.[2]

These uprisings cannot be generalized to embrace the entire rural community but they certainly highlighted in very large measure the reaction of certain regional groups to the imperial power. Popular revolts against the state were deemed criminal activities by the state, but what such a characterization ignores is that most of these uprisings occurred under conditions of acute agrarian distress. Poor peasants were driven to crime when their very subsistence was at stake. Revolt was obviously not an easy

[1] Compare Charles, Alfred Elliot, *Chronicles of Oonai* (Allahabad, 1862), p.73.
[2] *Akhbarat* FS, (1716-1717), II n. pp.87, 131, 143

option for the peasants; it was only when they were driven to the wall, as it were, that they took to open defiance against the state.

III

Crimes against the state: Highway robberies and rebellions

Routes and highways were quite unsafe in Mughal India. Merchants and traders usually moved in Caravans, for a lone merchant on a lonely route was bound to be looted by the bands of dacoits infesting the highways. Since most routes and highways passed through thick jungles, it was almost impossible for the state to apprehend them, and the rich cover of the forest provided them adequate refuge from the law-enforcing agents of the state. It does appear from the contemporary evidence that many of these dacoits and robbers enjoyed the protection so the local populace, in particular the peasants in the villages. They were viewed, unpopular consciousness, as right full avengers of justice --- glorious 'revolutionaries' resisting the state and the elites. They could, therefore, be described, in the language of E.J.Hobsbawm as, "primitive rebels" and "social bandits."[1]

Our period of Social crime was another important form of protest in our period of study. Social crime as against ordinary crimes is a political

---

[1] Hobsbawm. E.J. *Bandits,* second edition (Middlesex, 1985). *Primitive Rebels, Studies in Archaic Forms of Social Movements in Nineteenth and Twentieth Centuries* (Manchester,1959).

activity, a method of social resistance.[1] It would be quite mistaken to lump together all criminal activities into an essentialist and undifferentiated category, typifying no more Athena an aberrant behavior, for in such an approach there is a 'danger of becoming prisoners of self assumptions and self-image of the rulers; free laborers are seen as spontaneous and "blind", *and important kinds of social protest become lost on the category of* "crime."[2] David Arnold makes pertinent point when he says:

"If one recognizes a subjective element in all definitions of crime and perceptions of criminality, it follows that the investigation of these issues will provide us with insights into the nature of the elite (or hegemonic classes) and the character of the relations with subordinate classes."[3]

Sources make repeated references to the impressive support and that some of the criminals found from local societies. In Surat, for example, when the Mughals officials arrested a gang of fifteen bandits, the local *Banya* merchants offered money for their release, though in vain. And, as they were

---

[1] Douglas Hay, Peter Linebaugh and E.P. Thompson (eds.), *Albion's Fatal Tree: Crime and Society in Eighteenth-Century England* (London, 1975), p.16.
[2] E. P. Thompson, 'Eighteenth-Century English Society: Class Struggle without Class', *Social History*, 3, 2(1978), 133-66.
[3] David Arnold, 'Crime and Crime Control in Madras, 1858-1947' in Anand A. Yang (ed.), *Crime and Criminality in British India* (Tucson, 1985), p. 62.

being taken for execution, having been sentenced to death, the crowd cheered them and the petty, merchants offered them sweets:

"In their way thither [to the place of execution] they [the bandits] were cheerful, and went singing, and smoking Tobacco, the Banyans giving them Sweetmeats, they being as jolly as if going to a wedding."[1]

Here we come across E.J.Hobsbawm's 'social bandits'[2] or 'primitive rebels'[3], that is, those outlaws who were considered criminals by the state and the elites, but remained a part of their society and were seen by their own people 'as heroes, as champions, avengers, fighters for justice, perhaps even leaders of liberation, and in any case men to be admired, helped and supported'. 'Social banditry' injured sovereignty and consequently imperial retribution was both harsh and severe, with the body of the bandit becoming the site on which imperial authority was reaffirmed and rejuvenated. In the above cited instance, the bandits were tied to a tree and 'then cutting their legs off that the blood might flow from them, they left them miserable Spectacles, hanging till they dropped of their own accord.'

---

[1] John Fryer, *New Account of East India*, p. 97.
[2] E.J .Hobsbawm, *Bandits*, second edition (Middlesex, 1985).
[3] E.J .Hobsbawm, *Primitive Rebels: Studies in Archaic Forms of Social Movement in the Nineteenth and Twentieth Centuries* (Manchester, 1959).

However, the severity of state response should not blind us to the interrelations between 'social crime' and the system of rule. 'Social crimes', including 'social banditry' were political activities, and had the system of rule as their point of reference. These were undoubtedly among the most deadly, and for this reason, the least tolerable, in so far as the state and the elites were concerned, of the weapons in the arsenal of the subaltern groups. As a form of resistance, 'social banditry' was located in interstices between the peripatetic, unsettled powers, on the one hand, and the sedentary powers represented by the local controllers and the state on the other. However, it was presence of the common populace that imparted to it a distinctive character, for with their involvement the event ceased to be a 'crime' and become a collective revolt, an act of popular retribution against infringement of the shared normative system. 'Social crime' was indeed a form of political activity in which subordinate social groups reaffirmed the limits to the exercise of authority, by temporarily withholding their symbolic acceptance of the moral influence of the state.

The highway robbers are described in British sources as *Thugs.*[1] *Thugs* were highway robbers who made their living by robbery and often killing travelers, including traders, pilgrims and the wealthy. *Thuggee*, the controversial cult of ritual highway murders is one of the most sensational and contentious practices in South Asian History.[2] Actually the thugs were a fraternity of ritual stranglers who preyed on travelers along the highways in Mughal India. They were eliminated by the British official W.H. Sleeman, who from 1830 onwards is supposed to have discovered their hideouts by using pardoned thugs as 'approvers' (informers). There were several cases of theft and robbery in Mughal India that are mentioned in Persian sources, travellers' accounts and other sources. Banarsi Das Jain has referred several cases of highway robbery and theft in his autobiography, *Ardhakathanaka.* He informs us that one of his friends Khargsen and his wife were robbed on the way to Rohtak.[3] Father Monserrate came across a large number of robbers on the root from Surat to Agra.[4] Ralph Fitch[5] and William Hawkins[6] observed that the abundance of the robbers and dacoits made it very difficult

---

[1] See H. Yule and A.C. Burnell, Hobson-Jobson, *A Glossary of Colloquial Anglo Indian Words and Phrases and of Kindred Terms, Etymological, Historical, Geographical and Discursive* (London, 1886, reprint by Hertfordshire: wordsworth Reference, 1996), p. 915

[2] Kim A. Wagner (ed.), *Stranglers and Bandits*, (oxford university Press, 2009), p. 1.

[3] Banarsidas, *Ardhakathanaka,* trans. Mukund lath, under the title, *Half A Tale* (Jaipur, 1981), p. 11.

[4] Monserrate's *commentary*, p. 13.

[5] William Foster, *Early Travels in India*, p.23

[6] Ibid, pp. 113-14.

for the people throughout the country to move out without great force. In *Akbarnama* (1596), it has been recorded that one lakh gold *muhars* that had been sent for the equipment of the army of the South, had remained in Gwalior on account of the unsafe roads.[1]

Sir Thomas Roe refused to agree to the proposal of Prince Khurram, when he was the governor of the Gujarat that the English should not carry arms because the way of their caravans, which went from Ahmadabad and other parts of the country every year, would be exposed to the danger of thieves and robbers on the way.[2]

In Islamic law, Theft and highway robbery (*qata-ut-tariq*) are considered two distinct crimes and therefore different punishments are prescribed for them.

The term *Sarqe* has been defined as 'secretly taken away something from the lawful custody amounting atleast to the value of 10 *dihrams* (*nisab*) by a person having no ownership right in that thing.'[3] The rules set forth in the Islamic law for establishing the theft and its punishments are as follows:

---

[1] Abul Fazl, *Akbarnama*, III, p. 712.

[2] Thomas Roe, *The Embassy of Sir Thomas Roe, 1615-19*, (ed. W. Foster, London, 1926), p. 480.

[3] *Hidaya*, II, pp-515-16. In the definition of theft the stipulation of 'taking' implies that the object must have been removed from the *hirz* (custody); a thief who is caught with in the *hirz* *contd... Next page*

(i) The charge of theft is established on the testimony of two witnesses or on the confession of the thief himself.[1]

(ii) If the crime is committed by a major and sane person, the rules provide that his right hand would be amputated.[2] If he commits the crime for the second time, he has to lose his left foot.[3] If he repeats the crime for a third time he would be punished with perpetual imprisonment until he shows repentance.[4] There is no amputation for stealing the property of one's father, mother, son, brother, wife or of any close relation of a prohibited degree (*maharam*).

(iii) The amputation cannot be effected on stealing thing which are generally used as common property such as grass, firewood, fishes, etc. or the things which are easily perishable, or things of which the culprit is a co-owner, including public property and the things which cannot be the object of property such as the *Quran.*

(iv) After the *hadd* punishment has been executed, the thief is free from pecuniary liability. If the stolen object is still in existence, it is then obligatory on the thief to return it to the owner. If the thief returns

---

(e.g. within the house) is therefore not subject to *hadd.* According to some jurists the *hadd* could not be applied to the thief who hands over the stolen object to an accomplice outside from inside the *hirz* (ibid).

[1] *Hidaya*, II, pp. 516-17

[2] *Quran*,V 38.

[3] *Hidaya*, II, pp. 512-18; Shaikh Nizam Burhanpuri, *Fatawa-i Alamgiri*, II, p. 703

[4] Shaikh Nizam Burhanpuri, *Fatawa-i Alamgiri*,II, trans. Saiyad Amir Ali,ed. A. Rahman (Lucknow, 1932),p.713.

the stolen object before the application of punishment then, the *hadd* lapses.[1]

As for the punishment for theft in Mughal India, Aurangzeb's *farman* issued in 1672 and popularly known as the penal code contains several rules about them. The following articles of the *farman* related to theft are noteworthy.

(1) When theft was proved against a man by legal evidence or his own confession before the *Qazi*, the *hadd* would be enforced and the culprit be kept in prison till he really shows repentance.[2]

(2) A man committed theft twice and on both occasion *hadd* was applied to him. Now if he repeated the offence for the third time, he was to be chastised and kept in prison till he repented.[3] If he still did not mend himself and committed the crime he would be awarded life imprisonment.[4]

(3) If a man stole an object of the value of less then *nisab* (ten *dirhams*) or he committed the offence in such a way that *hadd* was not applicable to him; he was to be simply chastised, provided it was his

---

[1] *Hidaya*, ii, pp.517-19: Shaikh Nizam Burhanpuri (d.1679 AD.) Shaikh Nizam Burhanpuri, *Fatawa-i Alamgiri*, II, pp. 703-713.
[2] Khan, Ali Muhammad, *Mir'at*, I, p. 278.
[3] Khan, Ali Muhammad, *Mir'at*, p.278, this article is in agreement with Islamic Law.
[4] According to Shaikh Nizam Burhanpuri, *Fatawa-i Alamgiri*, (ii, p. 713) even death sentence can be awarded to the professional thief.

first chance. Otherwise he was to be imprisonment and in case of repetition he might be punished with perpetual imprisoned or even execution.[1]

(4) If a person, convicted for theft, informed that his booty was lodged with another man and it was actually discovered there. It was also proved that the man was an accomplice of the thief .The accomplice, would be only chastised, and provided it was his first offence. If he was proved to be a habitual offender, he would be imprisoned till he mended himself. But if he continued to commit theft he was to be imprisoned for life.[2]

(5) The stolen property was to be restored to the owner after legal proof of ownership, if he was around; otherwise it was to be deposited in the *bait-ul-mal.* Innocent purchaser of stolen property would not be punished. The property would be returned to the original owner after ascertaining his claim, or it would be kept in the *bait-ul-mal.*[3]

(6) A person accused of shroud-stealing (*nabbash*) would be detained. If the charge was proved against him he was to be reprimanded and then

---

[1] Khan, Ali Muhammad, *Mir'at*, I, p. 278
[2] Ibid, p. 279
[3] Khan, Ali Muhammad, *Mir'at*, I, pp. 278,279.

released. If this did not reform him and he became a habitual offender, he would be banished or his hand cut off.[1]

The punishments laid down in the *farman* for theft are mostly in agreement with those prescribed by the *shari'at*. There are, however, some clear differences between the two sets of penal codes. According to the Islamic Law a person, against whom the charge of theft has been legally established, is liable only to amputation of hand while Aurangzeb's *farman* adds that after the application of the *hadd* he should be kept in the prison till the time of repentance. The second reference appears to be in the case of shroud-stealer. In the *farman* it is stated that if it was his first offence he was to be set free after chastisement. But if he made it a profession, he was to be banished or his hand cut off.[2] But according to the *Fatawa-i-Alamgiri* the said offender was not liable to amputation in any condition.[3]

By an analysis of the recorded cases of punishment for theft we may judge to what extent the *shari'at* was followed in this sphere and how far Aurangzeb's own regulations were acted upon during his reign.

[1] Ibid, pp, 275-79
[2] Ibid, p. 278.
[3] Shaikh Nizam Burhanpuri, *Fatawa-i Alamgiri*, II, p. 714

Out of the fifteen cases of theft which have come to our notice from the Mughal period, the culprit was subjected to the punishment of amputation only in three cases.

1. *Tuzuk-i-Jahangiri* recorded the case of a professional thief who had committed the offence several times. Each time some part of his body was cut off. First he lost his right hand; the second time the thumb of left hand; the third time left ear, fourth time heals of both feet and lastly nose.[1]

2. Jahangir while staying at Ahmadabad, had ordered the thumbs of the servant of Muqarrab Khan, the governor, to be cut off. He had cut down some *champa* trees alongside the river.[2] This was a gross violation of the Islamic law which does not permit mutilation even for great crimes.

3. Two thieves, who were caught by a gardener at Ajmer during the reign of Aurangzeb, were brought to the judicial court and they confessed that they had committed the crime. They were kept in

[1] Jahangir, *Tuzuk*, p. 214. Only the first punishment awarded to the thief in the above case was lawful and the rest were unlawful.
[2] Jahangir *Tuzuk*, p. 256.

custody for twenty days. The *Qazi* gave verdict for the amputation of their hand and it was put into effect by the *kotwal*.[1]

There are five cases in which the thieves were ordered to be put to death, though the mode of the execution varied from case to case.

4. In 1616 some thieves plundered the royal treasury in the *kotwali chabutara*. After a few days seven of them were apprehended along with their chief, Nawal. They were executed in punishment for the crime. Their chief Nawal was ordered to be trampled under the feet of an elephant. He resisted the bulky animal and succeeded in pushing it back. So his life was spared. After some times, he made good his escape, but he was later arrested and ordered by the Emperor to be hanged.[2]

5. Manucci records that during the reign of Shahjahan a person who was guilty of committing theft in a *sarai* was executed.[3]

---

[1] *Waqa'i 'Ajmer*, A.D.1678-80. Asafiya Library, Hydrabad, transcript in Center of Advanced Study in History, Aligarh, I, p. 29. Thevenot observes with reference to the state of Golconda that when thieves were caught there, they were punished with amputation of hand which was the custom in most countries of Indies. (*Indian Travels of Thevenot and Careri*,ed. S.N.Sen, New Delhi, 1949, p. 136).

[2] Jahangir, *Tuzuk*, p. 167. In this case the thieves were not liable to the *hadd* as stealing from the public property does not carry liability for the *hadd* punishment.

[3] Manucci, *Storia*, I, p. 67.

6. He also informs us that just after the coronation ceremony Aurangzeb ordered 500 thieves to be beheaded. The executions took place in front of the mosque called Qadam-i-rasul.[1]

7. Recollecting the events at Lahore, Manucci records that during the governorship of Fidai Khan fifteen thieves were caught belonging to the tribe of Myne and Torj. They were sentenced to death.[2]

8. After capturing the fort of Vellore in 1703, Daud Khan had thrown all the thieves (caught by the army) to the crocodiles in the ditch around the fort.[3] It is not clear whether these were cases of ordinary or professional thieves. According to the *Fatawa* only thieves of the latter category may be put to death as a last alternative.[4]

We have come across seven cases of theft in which the culprits were merely imprisoned. They are as follows:

9. Some people were accused of stealing goods of certain Englishman at Navsari. On their confession of the theft they were put into prison by the order of the governor.[5]

---

[1] Ibid., II, p. 2.
[2] Ibid., II, pp. 430-31. Commenting on Aurangzeb's way of imparting justice, Manucci states, "to show his equity, power and greatness, the king ordains with arrogance and in few words, that the thieves be beheaded; that the governors and *faujdars* compensate the plundered travelers"; (Ibid., II, pp. 435-36).
[3] Manucci, *Storia*, II, p.168; N.Manucci, *Pepys of Mogul India*, (London, 1913), p. 261.
[4] Shaikh Nizam Burhanpuri, *Fatawa-i-Alamgiri*, II, p. 713.
[5] Foster, W. (ed), *English Factories in India*,13 Vols. (Oxford. 1906-27), II, pp. 219-20.

10. Three persons namely Man, Dadu and Sahu were apprehended while selling certain stolen clothes. On investigation they confessed to having committed the crime. The *Kotwal* put them all behind the bar.[1]

11. It was reported from Ajmer that a thief who had taken away ten cows, was caught and brought before the *kotwal*. The cows were returned to their owners[2] and the thieves were put into prison.[3]

12. A thief was apprehended while he was driving away two camels belonging to the state. He was ordered to be imprisoned.[4]

13. A non-Muslim called Dhana, was accused of having stolen some goods and three books of a state official. He confessed that he had committed the crime in league with four other persons and that the goods were kept with one Jodh Singh. He was taken into custody. In the meanwhile he accepted Islam as the conversion could not relieve him of the punishment after he had voluntarily confessed the crime, the *qazi* refused to pardon him. The thief got an opportunity to explain his case before the governor (Rukn-us-Saltanat), Khan-i-Jahan

---

[1] *Waqa'i' Deccan*, (ed. Yusuf Husain Khan), Hyderabad, 1953, p. 51.
[2] This was in accordance with the prescribed rule.
[3] *Waqa'i 'Ajmer*, I, p. 99.
[4] Ibid., I, p.162.

Bahadur Zafar Jang Kokaltash, who was passing by the *kotwali.* The latter prevailed upon the *kotwal* and secured his release.[1]

14. A person called Hari (who was accompanying Dilawar Khan) was caught while he was escaping with a horse belonging to someone from amongst the soldiers of Raja Rai Singh. He was presented before Dilawar Khan who offered him the alternative of accepting Islam as against the execution. He chose to accept Islam. Consequently he was pardoned and relieved of the prescribed punishment.[2]

15. According to Manucci, if thieves could not be caught, Shahjahan forced the officials to pay the compensation. In 1645, at Surat when thieves robbed the Dutch factory, they (Dutch) demanded from the governor a heavy penalty for having allowed them to be robbed within his jurisdiction. When Shahjahan came to know this affair, he issued an order that the Dutch should be indemnified from his treasury. On this occasion the Dutch made a profit of Thousand per cent.[3]

---

[1] Ibid., I, pp. 202-3.

[2] Ibid., II, p. 447. It was against the *shari'at* as the conversion to Islam had no effect on the execution of punishment for a person against whom the crime had been legally proved. (Shaikh Nizam Burhanpuri, *Fatawa-i-Alamgiri*, III, p. 266).

[3] Manucci, *Storia*, I, pp. 196-97

It may be said that imprisonment of the thieves in the above cases was not the actual punishment but a temporary arrangement pending investigation of the case or awaiting further order from the higher authorities. But in those cases in which the theft was proved either by confession or by the testimony of the witnesses, there can be no doubt that the thieves were imprisoned in actual punishment.

There are, however some unique form of punishment given to the thieves as recorded by certain foreign travelers. Sir Thomas Roe records that during the reign of Jahangir boys who were accused of theft were deported out of the country to be sold in slavery.[1] Manucci states about reign of Shahjahan that sometimes those criminals whose crimes did not merit death penalty were deported beyond the Indus and sold there as slaves by the Emperor's order.[2] The Persian sources do not substantiate such types of punishment for theft.

Highway robberies (Qata –ut tariq):

Highway robbers are defined in the Islamic law as persons, who, being too powerful for travelers to be resisted fell upon them with some weapons and robbed them at a distance from a city.[3] Travel accounts of Peter Mundy,

---

[1] Sir Thomas Roe, *The Embassy,* pp. 266-67.
[2] Manucci, *Storia,* I, p. 196
[3] *Hidaya,* II , pp. 533-34; Shaikh Nizam Burhanpuri, *Fatawa-i Alamgiri* , II, pp 727

Mandelslo,[1] Manrique, Tavernier,[2] Bernier, Manucci,[3] Ovington, Fryer and Careri give valuable information about crime and punishments during the Mughal period. According to Peter Mundy, Mandelslo, Manucci and Thevenot highway dacoties were quite common in Mughal India.[4] Punishment prescribed in the Islamic law for the highway robberies varies according to the circumstances leading to the crime.

i. Those who are seized after having committed simple robberies are to be punished with amputation of their right hand and left foot. If they are arrested before the commission of the offence they would be imprisoned till they repent.[5]

ii. Those robbers who are seized after having committed murder without robbery are subjected to execution with sword.[6]

iii. If they had indulged both in plunder and murder, they are to be executed by crucifixion.[7]

---

[1] J. Albert de Mandelslo (1638-40), *Mandelslo's Travels in Wetern India*. ed. M.S. Commissariat (Bombay, 1931), pp. 51-52.
[2] Tavernier, *Travels in India*, I, 69-71, 104.
[3] Manucci, *Storia*, I, p. 67; II, p. 160; IV, p. 110.
[4] Peter Mundy, *Travels*, II, pp. 40-46, 71-72, 119-20, 174, 253-54, 256-57, 263-65, 269-70; Mandelslo, *Mandelslo's Travels*, pp.50-51; Manucci, *Storia*, I, p. 308; Thevenot, *Indian Travel*, p. 19.
[5] *Hidaya* , II, p. 533; Shaikh Nizam Burhanpuri, *Fatawa-i Alamgiri*, II, pp 728.
[6] *Hidaya*, II, pp. 534-35 ; Shaikh Nizam Burhanpuri, *Fatawa-i Alamgiri* ,II, p. 728; *Quran*, V:33,34.
[7] Ibid

iv. If the highway robbers are more than one, the punishment would be awarded to all accomplices irrespective of their individual acts. If one of them is exempted from *Hadd* on any ground (for example he is a minor), the *hadd* would lapse with regard to all.[1]

v. The charge of highway robbery is established by confession or testimony of two witnesses.[2]

Aurangzeb's penal court has the following punishment for Highway robbery:

i. If the charge of highway robbery has been legally established against a person, he could be subjected to *hadd* in the presence of the *qazi.*[3]

ii. If a person accused of highway robbery is arrested and the governor and officials of the court are convinced of his guilt, he would be imprisoned till he repents. This can be done without a trial. But if someone specifically charges him with the offence he must be tried before a *qazi.*[4]

---

[1] *Hidaya*, II, and pp: 535-36, repentance from Highway robbery before arrest causes the *hadd* to lapse.
[2] Shaikh Nizam Burhanpuri, *Fatawa-i Alamgiri*, II, p. 729
[3] Khan, Ali Muhammad, *Mir'at*, I, pp. 278-79
[4] Ibid

iii. Habitual dacoits who cause loss to the lives and property of the people are to be executed.[1]

Since Aurangzeb's penal court is not very clear about the punishment actually prescribed for the highway robberies, a study of the specific cases of robberies may help us understand the nature of the actual punishment that was awarded to the robbers during the Mughal rule in India.

The sources have recorded the details of 12 cases of robberies. Out of these, the culprits were awarded death punishment in 10 cases. The mode of execution was not uniform in all the cases. A detailed study of the various cases is as follows:

1. A person named Jamaluddin had resorted to robbery and taken refuge at Patna with his uncle, Sayyid Qasim. At the instance of the Emperor Akbar, Munim Khan, Khan-i-Khanan , captured and sent him to Lahore where he was hanged on in the royal market and was shot at with arrows.[2]

2. In the reign of Jahagir, a band of criminals living at the bank of Yamuna were constantly engaged in theft and highway robberies.

[1] Ibid
[2] Badauni, *Muntakhab-ut Tawarikh,* II, p. 345

They had chosen forest as their refugee. Khan-i-Jahan Lodi was ordered to capture and kill them with the help of a group of state officials.[1]

3. Writing about Mir Jumla, Tavernier states that once a highway robber was bought before him, he ordered his stomach to be opened and he was thrown in a drain.[2]

4. It appears from the news letters of Ajmer that during the reign of Aurangzeb two highway robbers were apprehended and brought before the governor. They were put to death by his orders.[3]

5. It is reported that two servants of Aziz Beg *Daroga-i-top khana* had gone out with tow camels to bring grass. Two people attempted to take away their camels. One of the robbers was killed by them on the spot and other was arrested and brought before the governor who put them in prison.[4]

6. It was reported to Aurangzeb from Ahmednagar that Zadun Rai, a police officer of Chandel, had killed some highway robbers and

---

[1] Jahangir, *Tuzuk*, pp. 375-76
[2] Tavernier, *Travels in India*, pp. 292-93
[3] *Waqa'i'Ajmer*, II, p. 601
[4] Ibid, p. 626

recovered one thousand *mohrs* and 500 rupees from them. Aurangzeb apparently approved of the action as he did not show any adverse reactions.[1]

7. Muhamed Ibrahim, an imperial official, complained to Aurangzeb that while he was in imperial retinue he was waylaid by some miscreants. The Emperor deputed several officers to different directions to make search for the robbers and kill them where ever they were found.[2]

8. Fryer informs us that a gang of professional highway robbers was arrested. They used to plunder travelers and sometimes put them to death. They were condemned to be hanged on the orders of Aurangzeb.[3]

9. Fidai Khan, (who was governor of Punjab in the reign of Aurangzeb) is reported to have ordered the execution of Tarika Arain, a notorious robber.[4] Apart from the capital punishment, it is also apparent from the recorded cases that sometimes robbers were punished with imprisonment, as well.

---

[1] *Akhbarat,* (M.F. no .259) , 1701-02, f 123
[2] ibid (M.F. no .259) ,1703-1704 , ff 134-36
[3] Fryer, *New Account of East India,* I, p. 244. This was done in accordance with the Islamic law.
[4] Manucci, *Storia,* II, p. 196, this case appears to be against the stabilized rule of Mughal India that award of capital punishment was exclusively under the jurisdiction of the emperor(Abul Fazl, *Akbarnama* ,III, 38; Lahori, *Padshahnama* , I, 139 ;Muhammad Kazim, *Alamgirnama,* p. 1679 and Khan, Ali Muhammad , *Mir'at* ,I, p. 303)

10. It is related about Jahangir that while he was encamping at the village Amrohi (in Punjab), came to know about the activities of the some people belonging to the caste of *Khatur* and *Dalzak* who were well known for oppressing people and highway robberies. The Emperor ordered their capture and imprisonment at Lahore.[1]

11. The news writer of Sanbher (in Ajmer) reported to the court that a band of highway robbers had murdered nine travelers and thrown them into well. Seven of them were apprehended. They were ordered to be put in prison, till further action.[2]

12. It was reported to Aurangzeb by Sayyid Hamid Khan (who was looking after his camp-followers) that two persons, who had murdered Bahram, a camel-driver, and forcibly taken away his camels, had been arrested. The Emperor ordered them to be sent as prisoners to Ranthambore.[3] In the above three cases it is not clear whether the imprisonment of the robbers was for the purpose of trial or it was the actual punishment. Most probably there were waiting trial.

---

[1] Jahangir, *Tuzuk*, p.49.

[2] *Waqa'i 'Ajmer*, I, p. 146.They were legally subjected to execution with sword as they had committed murder without robbery.

[3] *Akhbarat*, (M.F. No. 257), 1683-84, f. 282.

Rebellion and Treason

Revolt against the Emperor is a culpable crime for which capital punishment has been prescribed in the Islamic law.[1] The problem has also been discussed in detail in Aurangzeb's penal code. According to it, the conspirators or rebels planning an offensive against the state, but had not yet taken to open rebellion should be arrested and imprisoned till they repented and promised to abstain from such activities. If they established a strong hold with a view to resist, they should be dealt with severely, attacked and annihilated, or forced to disperse. The captured rebels might be put to death or kept in prison till their power is crushed. If they repented and assured the authorities that their conduct in future would be beyond reproach, their property, if confiscated would be restored to them.[2]

The above mentioned regulations for dealing with rebels do not contravene the rules of the *shari'at* meant for such problems. But in practice the situation was different regarding the punishment for political offences during the Mughal period. In dealing with the problems of rebellion and treason, the Mughal Emperors exercised their authority with greater force than in any other sphere. Even in minor cases of rebellion and even on suspicion of

---

[1] *Quran*, V, p. 34-35, *Hidaya*, II, pp. 584-86.
[2] Khan, Ali Muhammad, *Mir'at*, I, p. 282.

treason they usually awarded capital punishment to the rebels, in contravention of the *Shari'at*.[1]

A study of the available information about the cases of rebellion and the punishment give by the Mughals to the rebels is hereby made to find out the rules laid down and acted upon by them. We have analyzed thirty cases of rebellion and treason in which the persons charged of the crime were punished variously. In twenty one cases capital punishment was awarded to such persons.

(1) In 1567, Bahadur Khan, the brother of Khan-i-Zaman 'Ali Quli Khan (the rebel who was killed in fighting against the Mughal army) was executed at the instance of the Emperor, while a number of his associates were ordered to be trampled under the feet of elephants.[2]

(2) Ibrahim Husain Mirza, the rebel, was defeated by Husain Quli Khan in 1574. The latter brought Masud Husain, the brother of the rebel and 300 other prisoners with him to the capital. Some of them were put to

---

[1] Akbar did not accept the advice of *Qazi* Tawaisi that he ought not to execute the followers of Khan-i-Zaman, the rebel; and confiscate their property after the rebellion has been suppressed and the battle was over. Instead the Emperor replaced *Qazi* Tawisi by *Qazi* Yaqub. (Badauni, *Muntakhab-ut Tawarikh,* III, p. 79)

[2] Abul Fazl, *Akbarnama,* II, p. 70; Badauni, *Muntakhab-ut Tawarikh,* II. p. 100.

death, the rest were released. Masud Husain was put in prison at Gwalior.[1]

(3) In the same year Muhammad Husain Mirza, who had revolted and waged war against the imperial army, was captured and brought to the court. Akbar ordered him to be kept under the custody of Rai Singh, governor of Jodhpur. The latter killed the Mirza without any express order of the Emperor. But as the Emperor did not question his action, he was apparently in favour of that punishment.[2]

(4) In 1588, many wicked persons such as Miraki, Shihab Badakhshi and others hatched a conspiracy against Akbar. They intended to create a disturbance and unrest in the eastern provinces. Their plot was discovered and an official inquiry was conducted. As a result of the inquiry, Miraki (apparently the ring-leader) was executed and others were put in prison.[3]

---

[1] Abul Fazl, *Akbarnama*, III, pp. 36-37; Badauni, *Muntakhab-ut Tawarikh*, II, pp. 151-61. In both the cases, execution of the family or followers of the rebels was not in accordance with the *shari'at* as is does not permit such action against them after the battle is over and sign of rebellion disappears.

[2] Badauni, *Muntakhab-ut Tawarikh*, II, pp. 167-69.

[3] Abul Fazl, *Akbarnama*, III, p. 298.

(5) In 1581 Roshan Beg, a state official, had left the imperial services and joined the rebels in Bengal. He was captured and put to death at the royal order.[1]

(6) In 1583 Bahadur Khan, son of Sa'ld Khan Badakhshi turned rebel and took refuge in the hills of Tirhut and devastated the country. He was captured by *Ghazi* Khan, *Jagirdar* of the *pargana* and sent to the court. He was executed at the instance of the Emperor.[2]

(7) Another rebel, Nur Muhammad, was brought to the court about the same period and was ordered by the Emperor to be put to death.[3]

(8) Jahangir's son Prince Khusrau revolted in 1605-6. The punishments given to various rebels were not uniform. Five of his associates, who were captured before the defect of Khursu, were ordered to be cost before the elephants on confession of the crime. Two others were kept under custody till completion of inquiry against them.[4] The prince was blinded and imprisoned. Two of his associates, Husain Beg and Abdur Rahim, were put in skins of a cow and an ass respectively and paraded through the city. As the skin of the cow quickly dried, Husain Beg

---

[1] Abul Fazl, *Akbarnama*, III, p. 309; Badauni, *Muntakhab-ut Tawarikh*, II, p. 280.
[2] Abul Fazl, *Akbarnama*, III, pp. 374-75.
[3] Abul Fazl, *Akbarnama*, III, p. 397.
[4] This suggests that the criminals were punished after they had been legally convicted.

died. Abdur Rahim, however, survived and fled. Some associate of Khusrau were impaled on the stakes act up on both sides of the road between the city of Lahore and the garden of Mirza Kamran.[1]

(9) Saheb Rao, a *zamindar*, who had turned rebellious, was pardoned by Jahangir on the promise of loyalty. But when he again raised the banner of revolt he was captured and trodden under the feet of an elephant, though he had offered to pay one lakh *huns* as blood-money.[2]

(10) In 1613 Dalip, son of Rai Singh, had turned a rebel. He was captured and brought to the court. He was awarded capital punishment.[3]

(11) In 1620 Chauper Mal, who has been sent to conquer the fort of Kangra, showed rebellious activities. He was executed at the instance of the Emperor.[4]

(12) In 1623, forty one rebels, who has been taken prisoner at Ahmedabad, were brought to the court and presented before the Emperor. Their ring-leaders were ordered to be trampled under the feet of elephants.[1]

---

[1] Jahangir, *Tuzuk*, pp. 28-29, 32, 58.
[2]Abdu-l Baqi Nihawandi, *Ma'asir-i Rahimi*, ed. M. Hidayat Hosain, *Bibliotheca Indica*,3 vols., (Calcutta,1910-31), p. 283.
[3] Ibid., pp. 126, 370.
[4] Elliot & Dowson, *History of India as told by the own Historians*, (London 1875), (*waqiat-i-Jahangiri*), p. 374.

(13) Muhtaram Khan and Khalil Beg were accused of indulging in rebellious activities. After the charge was legally established against them, Jahangir ordered their execution.[2]

(14) Subhan Quli, the huntman, was ordered to be put to death for his mutinous conduct.[3]

(15) In the reign of Shah Jahan, Raja Jajhar, a notorious rebel, was chased by the imperial army and put to death after being captured.[4]

(16) Muhammad 'Ali' Alam Shahi along with some of his accomplices were convicted of planning conspiring against the imperial authority in the reign of Aurangzeb. They were confined at the order of the Emperor. But when they showed no sign of repentance, they were executed by the royal order.[5]

---

[1] Jahangir, *Tuzuk*, p. 370.
[2] Jahangir, *Tuzuk*, pp. 354, 382.
[3] Jahangir, *Tuzuk*, pp. 239-40.
[4] Lahori, *Padshahnama*, I, pp. 261-62
[5] Khafi Khan, *Muntkhab-ul Lubab* II, p. 124. This is in agreement with the rules laid down in Aurangzeb's penal code (Khan, Ali Muhammad, *Mir'at*. I, p. 280).

(17) Gokhale *Jat*, one of the chief rebels and a source of great disturbance in the Patna region, was ordered to be executed along with his chief associate, named Sangi.[1]

(18) Haibat was convicted of creating disturbance which led to the loss of several lives. He was ordered by Aurangzeb to be put to death.[2]

(19) In 1699 Ugar Sen and twenty other rebels were brought from Muradabad and presented before Aurangzeb. They were ordered to be executed by the *Kotwal.*[3]

There is one case from Akbar's reign in which theologians were given death punishment for issuing legal verdict (*Fatawa*) in favour of rebellion against the Emperor for his irreligious activities.

(20) In 1581 Mulla Muhammad Yazdi, *qazi* of Jaunpur gave *Fatawa* that as Akbar had deviated from the path of *shari'at* and had become heterodox; the holy war (*jihad*) should be started against him. This fanned the spark of rebellion and a number of rebels raised their head especially in Bengal. Muhammad Yazdi and his associate Muizzul-

---

[1] Saqi Musta'id Khan, *Ma'asir-i- Alamgiri*, pp. 93-94. Before execution they were subjected to mutilation which was unlawful in view of the *shari'at.*
[2] Muhammad Kazim, *Alamgirnama*, I, p. 434.
[3] *Akhbarat*, (M.F. No. 258), 1698-99, p. 128.

Mulk were summoned to the court on some pretext. The Emperor ordered them to be separately sent to Gwalior where they were placed in a broken boat and drowned in the water. Some other theologians suspected of treason under impact of the *Fatawa* were also put to death.[1]

Here ten cases are taken for study wherein the persons convicted of conspiracy to rebel or associations with rebels were put into prison in punishment. They are as follows:

(1) The followers and family members of the rebel Khan-i-Zaman, who were captured after the death of the Khan, were imprisoned at the order of Akbar.[2]

(2) I'timad Khan and other Gujarati officials were charged with conspiracy and contumacious behavior in 1572. They were presented before Akbar who ordered them to be imprisoned.[3]

(3) Masud Husain, who was a party to the rebellion of his brother Ibrahim Husain in 1574, was ordered to be imprisoned at Gwalior.[1]

---

[1] Badauni, *Muntakhab-ut Tawarikh,* II, pp. 277-78; Abul Fazl, *Akbarnama*, II, p. 309. In the reign of Aurangzeb, a number of theologians in complicity with Prince Akbar had given fatwa of revolt against the emperor. Aurangzeb ordered them to be severely flogged and put in prison (Saqi Musta'id Khan, *Ma'asir-i-Alamgiri*, pp. 203-4).

[2] Badauni, *Muntakhab-ut Tawarikh,* II, pp. 51, 97-100.

[3] Abul Fazl, *Akbarnama*, II, pp. 9-11.

(4) The associates of Ali Alam Shahi and Miraki (who were executed for rebellion in 1580) were ordered to be imprisoned.[2]

(5) In 1581 Mir Ali Akbar, who was associated with the rebellion of Roshan Beg in Bengal, was ordered by the Emperor to be kept in confinement.[3]

(6) It has already been mentioned about the reign of Jahangir that the rebel prince (Khusrau) was merely kept in prison (after being blinded) by the order of the Emperor while a number of his associates were put to death.[4]

(7) In the same period Badiuzzaman, the son of Mirza Shah Rukh, had started for Mewar with a group of rebels to join the Rana. At the instance of the Emperor he was captured by the governor of Malwa and sent as prisoner to the court.[5]

(8) In the reign of Shah Jahan, the entire family of Raja Jajhar Singh, the rebel, were made prisoner and sent to the court.[6]

---

[1] Abul Fazl, *Akbarnama*, III, pp. 36-38; Baduani, II, pp. 151-61
[2] Abul Fazl, *Akbarnama*, III, p. 298.
[3] Ibid., p. 309; Badauni, *Muntakhab-ut Tawarikh,* II, p. 280.
[4] Jahangir, *Tuzuk*, pp. 28-29, 32, 58.
[5] Jahangir, *Tuzuk*, p. 60.
[6] Lahori, *Padshahnama*, I, pp. 261-62

(9) Aurangzeb is reported to have ordered the associates of the rebel Prince Akbar, to be imprisoned in different places.[1] In 1700 Wahid Afghan was ordered to be made a prisoner along with his associates and their property to be confiscated for their destructive activities in the territory of Prince Azam.[2]

(10) Aurangzeb is reported to have ordered the imprisonment of Shah Alam and his sons on a charge of conspiracy with Abul Hasan of Golconda.[3] Most of these cases seem incomplete and the confinement of the rebels or their associates was temporary.

The study of the above mentioned cases shows that the Mughal Emperors had made it a rule in general to award capital punishment to the ring leaders of the rebellion and to punish their associates with imprisonment or in some other ways banishment and public parading. About a few cases we can certainly say that those accused of rebellion were punished after actual conviction. Cases are on record showing that the harsh punishments for the rebellions had a deterring effect on the people. Fazil Khan, the officer in-charge of royal wardrobe, planned to send secretly five lakh gold coins to

---

[1] Saqi Musta'id Khan, *Ma'asir-i- Alamgiri*, pp. 203-04.
[2] *Akhbarat*, (M.F. No. 259), 1701-1702, p. 247.
[3] Saqi Musta'id Khan, *Ma'asir-i- Alamgiri*, pp. 298-400.

the rebel prince, Muhammad Akbar, in Persia. The Governor of Surat discovered the plot and informed Aurangzeb. Learning that his secret scheme had come to the knowledge of the Emperor and fearing its consequence, Fazil Khan ended his life by poison.[1]

[1] Manucci, *Storia*, III, p. 257.

IV

Criminal law under the Mughals

Islamic law is usually divided into two broad heads- *Tashriyi*, religious and *Ghair-tashriyi*, 'secular'. The purely religious portion of law is applicable to Muslims, where as the 'secular' laws apply to Muslims and non-Muslims alike. The principle is thus stated in *Fatawa-i Alamgiri*: "Non-Muslim subjects (*dhimmi*) of a Muslim state are not subjects to the laws of Islam."

Their legal relations are to be regulated "according to percepts of their own faith."

The political histories of the Mughals and their administrative and quasi-religious institutions have attracted the attention of a large number of scholars and works of great merit have come out on the subject. But comparatively little attention has been paid to the working of the legal system under the Mughals. The Mughals, had their own ideals of government and they were certainly capable enough to put in place a framework of laws to give shape to their ideals. In the present work an attempt is made to examine the criminal legal system under the Mughals. It

has been argued by several imperialist historians that the Mughal rule was despotic and arbitrary, bereft of state principles and a legal system. I have made an effort, in this chapter, to show that the imperialist postulation is erroneous and, perhaps deliberately mistaken.

Among the orthodox *ulema*, the Mughals were expected to impose the Islamic Law or *shari'a* , and to act upon it in administrative matters. But in the formation of the Mughal state several factors played contributory roles with varying degrees. These factors comprised the central Asian origins and background of the Mughals and the prevalent political system of the country of their adaptation. Their own political heritage was rich and as descendants of Changez Khan and Timur, the Mughals could not severe relations from their past completely in entirety. Then they had to face the peculiar Indian situation where the people professed to a wide variety of beliefs and had their own political, social and economic institutions.

The Islamic concept of a state signified a political organization established for the purpose of enabling the Muslim community to live in accordance with Islamic ideals in all spheres of life. The ruler under such political set-up constituted the highest executive who was inter alia the commander of the faithful and the foundation of the justice. But law-making did not fall within

the purview of his prerogatives. He was only a supplant to the law; he could neither repudiate nor modify it.[1] He was authorized to exercise his discretion in controversial matters and to choose any one of the various interpretations given by the jurists in any point of difference.[2]

The Mughal Emperors apparently accepted the supremacy of the *shari'at* law over the state, at least in theory. They did not consider themselves above the law, nor did they claim to have the power of legislation. Even the *mazhar* issued at the instance of Akbar did not give him the right to change laws. It only emphasized the discretionary rights which a Muslim ruler was entitled to use in controversial matters.[3] But in Mughal India the law seems to have been divided for all practical purposes in two categories- religious and political.[4] The Mughals placed the matters relating to religious obligations, marriage, divorce, inheritance, pious endowment, etc., under the

---

[1]Abul Hasan Ali Mawardi, *Al-Ahkam-us Sultania*, (d. 1058 AD), cairo, 1909, p. 3; Ibn Khaldun, *Muqaddama*, cairo, 1929 A.D., trans. Franz Ros Enthal , 3 vols., (New York,1958), p. 159; Fazl Bin Ruzbahan, *Suluk-ul Mulk*, rotograph No.46 (Ms. British Museum Or. 253), Research Library, department of History (AMU.,Aligarh), ff.19a-20b.

[2] According to the authoritative view of the jurists, to be entitled to exercise discretionary rights or to give an independent reasoning (*ijtihad*) a ruler should be endowed with ability to judge the merits of different interpretations and should possess sufficient knowledge and legal acumen to arrive at a sound decision. Abu Ishaq Shatibi, *Al-Muwafiqat fi usul-il shari'at*, cairo, IV, pp. 105-7; Shah Waliullah, *Mujjat-ullah il Baligha*, cairo, 1286, pt. I, pp. 156-157; *The Encyclopaedia of Islam*, 1971, III, pp. 1026-27 (article on *ijtihad* by D.B.Macdonald)

[3] Badauni, *Muntakhab-ut tawarikh*, II, p. 270

[4] Khan, Ali Muhammad, *Mir'at-i Ahmadi*, I, p. 257. This division of law also existed during the Delhi sultanate. Alauddin Khalji is reported to have declared that the polity and government were one thing and the rules and decrees of law another. The rules of government were to be administered by the kings and the *Shari'at's* rules by the *qazis* and *muftis*. Muhammad bin Tughlaq has expressed his inability to observe the limits of the *shari'at* in giving punishment for political offences and resolved to take decision on his own in such matters according to the exigencies of time.

jurisdiction of religious authorities (*qazis*, *muftis* or *sadrs*) and paid due regard to their opinion and decisions in these matters. In political affairs however, they considered themselves sole interpreter of laws and did not brook interference from the *ulama* and jurists. In this sphere the judgement of the *qazis* and jurists were not only set aside by the Emperors, they were sometimes also relieved of their job assignments if they did not conform to the policies of the rulers, or refused to serve their interests.[1] To deal with the administrative problems, the Mughal rulers promulgated new regulations paying little regard to the consistency of their edicts with the ideals of Islam or sanction from the *shari'at*. Thus the limitation imposed by the *shari'at* to the exercise of their authority was not fully observed.

The Mughals did not exclusively base their administrative regulations and legal canons on the postulates and the edicts of the *shari'at*. An enunciation of the source material and the set of rules, criteria and administrative manuals make it abundantly clear that there existed four kinds of legal codes

[1] After the suppression of Khan-I Zaman's rebellion during the reign of Akbar. *Qazi* Tawaisi had declared that it would be against the *shari'at* to kill the men of the rebel's party and to confiscate their property after the battle was over. As the decision was not acceptable to the emperor. *Qazi* Tawaisi was replaced by *qazi* Yaqub (Badauni, *Muntakhab-ut Tawarikh,* II, pp. 100-101, III, p. 79.) Aurangzeb is reported to have ignored the advice of *Qazi*-ul-Quzat, *Shaikh-ul-Islam* and *Qazi* Abdullah that fighting with Sultans of Bijapur and Golconda was illegal as they were believers. Muhammad Hashim Khafi Khan, *Muntakhab-ul Lubab*, II, p. 439; *Waqai-i Nimat Khan Ali*, Nawal Kishor, Lucknow 1928, pp. 22-24.

and set of regulations to serve as guides in the legal framework of the empire.

(I) Canon Laws:-

There were laws that concerned civil matters of the Muslim community. It was applied to the Muslims in such matters as inheritance, succession, marital rights, guardianship, etc.

(II) Law of the land or common Law:-

It signified the laws that governed the system of taxation, commercial transaction and regulated customs, transit duties, barter, exchange, sale and contract. The common law also dealt with the offences involving maintenance of internal peace and order or with the criminal acts recognized by age-old human society, such as adultery, murder, theft, robbery, etc. the Law of the land was common to all subjects of the state.

(III) State Law (*Zawabit* or *qawanin-i Shahi*):-

This consisted of regulations enacted by the state and executive decrees issued by the Emperors from time to time for conduct of the state affairs and governance of the country. The sphere of the state law naturally wide

comprehended all those aspects for which no legal precedent was available or the existing law was not effective to cope with the new administrative problems.

(IV) Customary Law (*qanun-i urf* or *adat*):-

The fourth set of the Mughal law comprised the local customs, traditions and the prevalent practices. The customs sanctioned by traditions usually recognized as an important source of law. The Mughals as well as their counterparts in other Muslim countries gave due weightage ranging from tacit forbearance to the actual acceptance and sanction to custom and local traditions to add to the dimensions of the legal framework in operation in the empire. The customary law, in fact, served as an expedient instrument for the Muslim rulers in tackling the administrative problems. It also provided them with a legal ground for justifying their enactments in temporal matters.[1]

The Mughal Emperors took into account the local customs and practices and retained them in their legal-punitive system. Apart from the significance

---

[1] The *Hanafite* and *Malikite* both schools recognize within limit the validity of the customary law, while the *Shafiites* do not accept it as a source of law. However, the commonly accepted opinion of the jurists is that a custom is not valid if it contravenes the explicit text of the *Qaran* or *Hadis*. It can overrule a *qiyas*, but cannot abrogate the ruling of the *Quran* or *Hadis* (*Al-Sarkhasi*, *Sharh-us Siyar-il kabir*, Hyderabad, 1918, A.D. I, pp. 194, 198, II. p. 296, IV, p. 16.)

given to the local customs in the disposal of cases by the village *panchayats*, they were also applied to the matters relating to revenues, duties on merchandise, commercial transactions, contract, etc. The local traditions were so firmly rooted in certain parts of the country that sometime new converts to Islam carried them into the Muslim society though many such practices were contrary to the Islamic values and recognized certain un-Islamic laws such as the exclusion of daughters from inheritance. But evidence are not lacking to suggest that whenever any specific cases of violating the Islamic law was brought to the notice of the Emperor he took steps to put an end to the illegal practices.[1]

The impact of the local customs and traditions on the working of the Mughal government apart, the significance of the Mongol customs and traditions cannot be overlooked. In this reference the *Tura-i Changezi* was considered an important constitutional code by the Mughals.

The Mughal Emperors not only incorporated the local customs and traditions into their legal administrative system, they also introduced changes and modifications in the Islamic Law, as well. The changes and modifications

---

[1] Abdul Hamid Lahori, *Padshahnama*, Calcutta, 1868, I, pp. 57-58; Amin Qazwini, ,*Padshahnama*, Transcript, No.13, (MS. Raza Library, Rampur), Research Library, Department of History (AMU, Aligarh), pp. 355-356, 633-34; Shihabuddin Talish, *Fathiyya-i Ibriya*, Rotograph, No.148 (MS. Bodleian Or. 589) Research Library, Department of History (AMU, Aligarh), f.131b.

are greatly in evidence in the laws concerning secular matters such as the administration of land revenue, imposition of taxes and duties on merchandise. Sometimes modifications were also made in the canon law owing to social and political requirements. The Laws relating to religious beliefs, marriage, divorce and inheritance were not altered, but the penal law underwent substantial changes during the Mughal period. It seems that even Aurangzeb, generally known as an orthodox Emperor, introduced many modifications in it. A striking illustration of such modification is to be found in a *farman* of Aurangzeb issued to the *diwan* of Gujarat in 1672 A.D, dealing with various aspects of the penal code. The proclamation of this *farman* by Aurangzeb, when many works on the Islamic law including the *Fatawa*-i *Alamgiri*, compiled at his own instance, contained elaborate discussion on the penal law, may be explained by the fact that the Emperor considered modification in the existing law necessary in view of the new problems of state administration.

The Mughal Emperors like other Muslim rulers of medieval India were *Hanafites* (the followers of the school of jurisprudence founded by Abu *Hanifa*),[1] but they never felt themselves bound by any particular school of

[1] The prevalence of the *Hanafite* doctrines in medieval India owes to the influx of a large number of learned scholars (ulama) from Nishapur, sannan, Ghaznin, Kashan, Balkh, sajistan, Khwarizm and Tabrez

jurisprudence. If *hanafite* interpretation suited their political ideology, they accepted it, otherwise they asked *qazis* and jurists to look for the legal opinion that suited them in the others schools of law.[1] It appears that they rejected the *Hanafite* position expressed by the *qazis* or jurists on a particular problem if that did not suit their political requirements.[2] Their acceptance or rejection of legal opinions was based on political expediency. They regarded themselves entitled to choose the opinion of any jurists from amongst the four schools of Islamic law.

In regard to the application of the law to the non-Muslims under the Mughals, it is evident from the contemporary sources that they were not bound to observe the religious laws of Islam, nor were they subject to those portions of the civil law which related to the purely personal laws of the

---

which were stronghold of the *Hanafite* school of jurisprudence. These *Hanafite* scholars marked so great effect on the academic climate in India specially in judicial sphere that the *Hanafite* school of jurisprudence was officially accepted by the Muslim rulers and this became foundation-structure of the judicial system operating in the law courts in India (*Al- Qalqahandi, Subh-ul Asha* (Eng. tr. C. sphies) Aligarh, (undated) p. 29; Badauni, *Muntakhab-ut Tawarikh*, III, pp. 82, 150; Lahori, *Padshahnama*, I, p.137; Muhammad Kazim, *Alamgir Nama*, Calcutta 1868, II, P. 1071; Saqi Musta'id Khan, *Ma'asir-i- Alamgiri*, Calcutta, 1871, p. 525).

[1] According to the Muslim jurists, a Muslim ruler is permitted to adopt one of four schools of jurisprudence. Even after formal acceptance of one school of law he has option to decide the case according to the view of any school other than his own. (*Fatwa-i Alamgiri*; *Matba-i Majidi*, Kanpur, 1931, II, p. 359)

[2] Akbar is reported to have dismissed *qazi* Yaqub who had expressed his view according to the *Hanafite* School of law that only four wives were allowed in Islam and that *mutah* marriage was illegal. The new incumbent, *qazi* Hussain Arab, declared the validity of *Mutah* marriage in accordance with the view of Imam Malik and this was accepted by the emperor (Badauni, *Muntakhab-ut Tawarikh*, II, pp. 208-10). Aurangzeb did not accept the *Hanafite* point of view about illegality of execution of the Muslim prisoners of war caught in fighting with the imperial forces near the fort of Satara and chose to follow the opinion of other school of law which permitted their execution in view of the security of the state. (Hamiduddin Khan, *Ahkam-i Alamgiri*, Calcutta, 1929, pp, 81-82)

Muslims such as inheritance, succession, marriage, will, etc. But the 'secular' portion of the civil law relating to trade, exchange, sale and contract was applicable to them. They were also bound by those portions of the penal code which related to the security of life and property of the common people or tranquility of the state, such as theft, murder, robbery, rebellion, etc,. Their cases were mostly settled by the local customs. When the cases relating to their personal law were brought to the Mughal court they were decided in consultation with their own doctors of law.[1] The cases arising art of a dispute between a Muslim and a non-Muslim were generally disposed of on the basis of the principle of equity. There is ample evidence to show that the non-Muslims were given the right of claiming retaliation in murder cases and that the Muslims were actually punished for committing offence against person or property of the non-Muslims.[2] According to the Islamic Law, a non-believer was not entitled to give evidence against a believer, but the cases of acceptance of the evidence of the Hindus against the Muslims are recorded in the sources.[3] The observance of the *Hanafite* doctrines in India also marked a great impact on the attitude of the Muslim

---

[1] Badauni , *Munthhab-ut Tawarikh* , II, p. 376, *Early Travels in India.* (ed. W. Foster) Oxford, 1921, pp. 315-331; Monserrate, Antony's *commentary* (Eng. Tr. J.S. Hoylend and S.M. Benerjee) London, 1922, p. 183; Bernier, *Travels in* the *Mogul Empire* (Eng. Tr. A Constable) New Delhi, 1968, p. 30.
[2] *Waqai-i Ajmer*, transcript (Ms. Asfia Library, Hyderabad, 2242), No.15, Research Library, Department of History (AMU, Aligarh), pp. 68, 99, 183, 191, 232; *Akhbarat*, 1705-1706, f. 47; Foster, *English Factories in India*, II (1622-23), p. 284; Manucci, *Storia*, I, P.175.
[3] Manrique, *Travels*, ed. Luard and Hoston, (Haklyut Society, 1927, II, p. 112).

rulers towards the non-Muslims as the *Hanafite* School was more tolerant than others in its treatment of the non-Muslims.[1]

It is true that no manual of law or statute-book of the modern times existed during the Mughal period, but it cannot be denied that under the Mughals certain rules and norms were at work for the punishment of offenders and criminals, to regulate the inland and the foreign trade, to govern the agrarian relations, to determine the proprietary rights and to guide the international relations. Besides, the Mughals had also taken practical measures in dealing with the different political and administrative problems. Out of these rules and practices the laws can be sorted out and placed under different categories in accordance with the subject.

The basis of Islamic government, society and jurisprudence (*fiqh*, literally wisdom) is the *Quranic* law or *Shari'a*. Its sources are four:-

(1) The *Quran*

(2) The *Sunnah* or *Hadis* (the sayings, practices and authentic traditions of the prophet interpreting the *Quran*).

[1] *Fatwa-i Alamgiri*, compiled from the *Hanafite* point of view (II, pp. 277-78) lays down the principle that non-Muslim subject of a Muslim state are not subject to the laws of Islam. Their legal relations are to be regulated according to the precepts of their own faith.

(3) *Ijtihad* (rational interpretation), accepted by *ijma* or consensus of opinion of jurists (*mujtahids*).

(4) *Qiyas* (analogy) or reasoning analogous to the principles of the *Quran* and the Prophet's teaching.

The first two, (*Quran* and *Sunnah* or *Hadis*) were the principle sources or *usul* ul *usul* (bases of the bases) of Law. The next two sources (*ijtihad* and *Qiyas*) grew up to meet the requirements of the growing Islamic empire.

Four schools of Law developed in orthodox *Sunni* Islam, besides the *Shia* and *Kharji* sects:-

(I) The *Hanafi*

(II) The *Maliki*

(III) The *Hanbali*

(IV) The *Shafi*

The Punitive System

The Islamic Penal Law classifies offences under two broad categories- those which are against God or public rights and those which violate private rights. The violation of public or private rights[1] is punishable in three ways:- viz, *hadd*, *qisas* and *tazir*.

We shall discuss the various offences and the punishments prescribed for them by the *shari'at* and the conditions in which they were applicable. Then we will see how far in the available cases, the Mughals followed the *shari'at* law and took care of the condition laid down for its application.

- ***Hadd*** (plural: *hudud*) literally means boundary, limit or barrier. In legal terminology it signifies the limit (of law) laid down by God, and so in reference to penal law it came to be known as the punishment, the exact limit of which has been fixed by the Quran and *hadith*. The *hadd* is considered a right or claim of God (*huqullah*) and it can neither be changed nor remitted by the ruler or any judicial authority.[2] It is applicable to the following offences concerning the public rights.

---

[1] *Burhanuddin al- Marghinani, Al- Hidaya, Matba-i Yusufi,* Lucknow, 1907, II, p. 486; *Fath-ul Qadir*, cairo, 1898, IV, p. 112; Ibn Tamiya, *Al-Siyasat- ush Shariyah,* cairo, 1904, pp. 20-29, 68-69. Since in Islam the state belong to God, the violation of Public rights is treated as an offence against God and the infringement of private rights as an offence mainly against the individual concerned.

[2] *Hidaya*, II, pp. 485-86; Mawardi, *Al-Ahkam-us Sultania* , pp. 194-95

(a) Adultery (*zina*)

(b) The false accusation of adultery (*qazf*)

(c) Drinking wine (*Shurb-ul Kshmar*)

(d) Theft (*sarqa*)

(e) Highway robbery (*qata-ut tariq*)

(f) Apostasy (*Iridad*)

- ***Qisas*** (retaliation) and *Diyat* (blood-money) Qisas is of two kinds: *qisas fi'i- nafs* (blood retaliation) which is applied in cases of killing. The other is known as *qisas fi-ma dun al- nafs* and it is applied to cases causing grievous injury which do not prove to be fatal.[1] In case the next of kin (*wali-ud dam*) agree to accept blood-money (*diyat*) or pardon him unconditionally, the offence can be compounded and no further cognizance of it can be taken by anyone.[2] Here it differs from the *hadd* punishment which cannot be changed or compounded once it become applicable to anyone. The rules laid down in the *shari'at* in connection with the *qisas* are as follows:

The Islamic law places the act of homicide in five categories according to the nature of the crime

---

[1] *Hidaya*, II, pp. 546-47, 553-54; Abu Bakr bin Ali al- Jassas, *Akham-ul- quran*, cairo, 1929, I, p. 155.
[2] *Hidaya*, IV, pp. 544-48.

a. Deliberate intent (*'amd*)

b. *Qasi*-deliberate intent (*shibh-ul 'amd*)

c. By mistake (*khats*)

d. Cases assimilated to mistake (*qaimuqam-i khate*)

e. Indirect homicide (*qatl be sabab*).[1]

a. Deliberate Intent:- If a person committed willful murder by using a deadly weapon he is liable to retaliation. In case, the next of the kin of the slain person (*Wali ud dam*) demanded the retaliation, it has to be awarded by the judge.[2] The kin has also the right to waive it away either gratuitously or by a settlement with the culprit in return for blood-money (*diyat*).[3]

b. *Quasi*-deliberate intent- this implies an intentional killing but without using a deadly implement. This entails performance of *Kaffars*[4] by a culprit and the payment of 'heavier' blood-money [5] by the male

---

[1] *Hidaya*, IV, pp. 543.

[2] According to Abu Haneefa, the person liable to retaliation would be beheaded with a sword or a similar weapon. Imam Shafi and Malik are in favour of killing the murderer in the manner in which he had killed his victim (*Hidaya*, IV, p. 547).

[3] *Quran*, II: 173-74, *Hidaya*, IV, pp. 543-44. In case there is more than one claimant for the blood of the culprit, all must be unanimous in their demand.

[4] *Kaffars* (expiration) signifies the manumission of a Muslim slave and in case of inability to do so, fasting for two consecutive months (*Hidaya*, II, p.390).

[5] The *diyat* os of two kinds: (a) *mughallaze* ('heavier' blood-money) which amounts to 100 camels of a high quality; (b) *muhaqqaqa* ('normal' bloody-money) which consists of 100 less valuable camels or 1000 *dinars* or 10000 *dirhams*.

members of his tribe or the nearest related tribe or his confederates (*'aqila'*).[1]

c. Homicide by mistake- the mistake may be of two kinds: in the purpose (*filqasd*) or in the act (*filfa'l*). In both the cases the prescribed punishment is performance of *kaffars* and payment of the normal blood-money.[2]

d. Assimilated to homicide by mistake- For example, a person rolls on another person in sleep and causes his death. This entitles the same punishment as under category (c).[3]

e. Indirect homicide - A man digs a well and another falls in it and loses his life, the man (who has dug the well) is liable to the normal blood-money only, if he did so on some private or public property without the permission of the owner or the ruler respectively.[4]

---

[1] *Hidaya*, IV, pp. 544-45. During the death is '*amd*' flogging to death is *shibh-ul 'amd'*. Homicide by drowning and strangling are controversial. According to Abu Haneef, retaliation occurs in both the cases, while his two disciples (Muhammad & Abu Yusuf) do not agree with his (*Hidaya*, IV, pp. 550-544, 550).

[2] *Quran*, IV : 94; *Hidaya*, IV, p. 525

[3] *Hidaya*, IV, p. 545. Cases (a) to (d) have the further legal effect that they exclude thye culprit from inheritance from the deceased (ibid., pp. 544-45).

[4] *Hidaya*, IV, pp. 545-46.

There are a few cases of intentional homicide to which retaliation (*qisas*) does not apply but the culprit will have to pay the blood-money. The situations in which retaliation is not enforceable are as follows:

(a) If an ascendant (e.g. father) kills his own descendant (e.g. son), there will be no retaliation.

(b) If there are several culprits and one of them is exempted from retaliation for any reason, the other will be exempted too.

As regard the rules laid down for the *qisas* and its application during the Mughal rule, we have evidence that the Emperors took great care in investigating such cases and ascertaining the truth. Again and again they emphasized that capital punishment should be awarded only on the grounds sanctioned by the *shari'at.*[1] It was an established rule in those days that the cases involving capital punishment were finally decided by the Emperor himself. The governor's right of awarding this punishment was taken away by Akbar.[2] His successors also made it obligatory for provincial and judicial officers to seek their approval and confirmation for the execution of death sentence.[3] Even after the death sentence had been passed against a person, the Mughal Emperor did not favour haste in its execution. Akbar is reported to have ordained that the condemned person should not be executed until he gave order for the third time.[4] Jahangir had laid down the rule that a person against whom death sentence had been passed, would not be executed till

---

(c) There is no liability (to retaliation) for murdering a person whose blood is allowed to be shed with impunity *(mubah-ud dam)* e.g., *harbi-* a person belonging to an enemy territory which is in a state of war with the Islamic state (*Hidaya*, IV, pp. 546-47, 556).

[1] Abul Fazl, *Akbarnama*, III, pp. 4-5, 390-91; Badauni, *Muntakhab-ut Tawarikh,* II, p. 147; *Jahangir's India*, p. 57; Jahangir, *Tuzuk*, pp.239-40; Lahori, *Padshahnama*, I, pp. 139,275-76; Qazwini, *Padshahnama*, transcript (MS: Raza Library, Rampur) no. 13, (Research Library, Dept. of History, AMU. Aligarh) II, pp. 263, 355-59; *Alamgir Nama*, II, pp. 1077-78; Saqi Musta'id Khan, *Ma'asir-i-Alamgiri,* p. 528; Khan, Ali Muhammad, *Mir'at,* I, p. 282; Hamiduddin Khan, *Ahkam-i-Alamgiri*, Calcutta, 1929, p. 43; Aurangzeb, *Ruqaat-i- Alamgiri*, Letters and Orders, p. 15;

[2] Abul Fazl, *Akbarnama,* III, p. 38; Monserrate's *Commentary*, p. 209.

[3] Joannes De Laet, *'De Imperio Magni Mogolis'*,trans. J. S. Hoyland, annotated by S. N. Banerjee, *The Empire of the Great Mogul*, (Bombay,1928), p. 93; Lahori, *Padshahnama*, I, p. 139; *Alamgir Nama*, II, p. 1079; Khan, Ali Muhammad, *Mir'at*, I, p.303; *Waqai-i-Ajmer*, pp. 14, 18-19; Manucci, *Storia*, II, p. 394.

[4] Monserrate's *Commentary*, p. 209.

sunset, as he might revise the judgment on a mercy appeal from the convicted person or his relations. If no fresh order rescinding the punishment was passed till sunset, he was to be executed.[1] Shahjahan also followed the practice established by his predecessors.[2]

Aurangzeb's penal code laid down that the persons legally convicted of murder should be detained and a report thereof are sent to the royal court.[3] The rule that the people were executed only for offences in which capital punishment was prescribed by the *shari'at* and that he never liked human blood to be shed merely to satisfy one's whim and caprice.[4]

We will analyze here forty three cases of murder and the punishments awarded to the criminals.[5] In cases (nos. 1- 17) the murderers were awarded death sentence after their crime had been legally established. In six (4, 12, 14- 17) out of seventeen cases, the culprits were executed in retaliation on demand from the heirs of the deceased.[6] In the remaining eleven cases where the victims were government officials, and in all of them, the

---

[1] Jahangir, *Tuzuk*, pp. 239-40.
[2] Qazwini, *Padshahnama*, II, pp. 355-57; Bhimsen, *Nuskha-i Dilkusha*, British Museum (London)
[3] Khan, Ali Muhammad, *Mir'at*, I, p. 282.
[4] Muhammad Kazim, *Alamgirnama*, II, pp. 1077-78; Saqi Musta'id Khan, *Ma'asir-i- Alamgiri*, p. 528.
[5] See the Appendix at the end of the chapter
[6] In two (12, 15), of these cases, the heirs of the deceased were persuaded by the authorities to pardon the condemned in return for blood-money. But they did not agree and the death sentence was implemented. (Muhammad Salih, *Amal-i- selih*, Calcutta, 1923), III, pp. 344-45; Saqi Musta'id Khan, *Maasir-i- Alamgiri*, p. 126.

Emperor ordered the murderers to be executed. It is interesting to note that in case-17 the court was inclined to forego the execution if the culprit, a Portuguese; accepted Islam, but he refused.[1] On the other hand the murderer, a Rajput (in the case 16) fearing the loss of his life embraced Islam after his conviction. The matter was reported to Aurangzeb who referred the cases to the *qazi*. The *qazi* left the action to the heirs who were not prepared to forgive him and consequently, the culprit was put to death.[2]

As far as the manner of execution of death punishment was concerned, only in one case (case No. 12) it was done with a sword in accordance with the Islamic law[3]. In one case (No. 4) the culprit was crushed under the feet of the elephant. In another case (No. 1) the culprit was pushed down from the roof of a building. In fourteen cases (2, 3, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17) the manner in which the capital punishment was awarded is not recorded.

There is only one case (No. 18) out of forty five in which blood-money is mentioned to have been demanded by the heirs of a murdered person instead

---

[1] Manucci, *Storia*, II, p. 425

[2] *Akhbarat*, (M.F. No. 259), (1701-02), f. 149. This was in agreement with the *shari'at* rules. In one case (2) the culprit was punished with retaliation by Akbar's order though he was a mad; Badauni, *Muntakhab-ut Tawarikh,* III, p. 336

[3] This happened with regard to Murad Bakhsh for murder of Ali Naqi, *Futuhat-i-Alamagiri*, Rotograph No. 42 (MS : B. Museum Add. 23, 884) Research Library, Department of History (AMU., Aligarh) ff. 47b-48a; Manucci, *Storia*, I, p.240)

of *qisas*.[1] The English Factory Records informs us that the East India Company laid a claim for payment of 560 ½ mahmudis from the Mughal government for the life of an Englishman who had been killed by some persons in Pahalwan Safed. It was also clarified in the same source that the amount mentioned above had been settled when a similar crime was committed by their own man at Surat.[2]

In five cases (19-23) the heirs of the deceased did not demand retaliation (*Qisas*) from the murderers and pardon them altogether. But in two cases (21 & 22) the government awarded them some minor punishment as admonishment.[3] In two cases (19 & 21) both the culprits and victims were non-Muslims. In one case (20) the culprit was a non-Muslim and the victim a Muslim, while in another, (25) the case was reversed.

There are five cases Nos. (24-28) in which the Emperor himself exempted those persons convicted of murder from the capital punishment and awarded

---

[1] The *Mahmudi* was the main coin of Gujarat before it was conquered by the Mughals. Though the rupees was introduced by Akbar at Ahmadabad after his conquest of Gujarat, but the Mahmudi continued to be minted at Surat for sometime longer. The rate of exchange was subject to fluctuation, but it was normally five Mahmudis for two rupees (S.H Hodivale, Historical Studies in Mughal Numismatic, (Bombay, 1976), pp. 115-31).

[2] Foster, *English factories*, II (1622-23) p. 284. There are also some fragmentary references to the practice of taking blood-money in return of retaliation in Mughal India (*Akbar Nama*, III, pt. I, p.266; Abdul Baqi Nihawandi, *Ma'asir-i Rahimi*, p.283; *Akhbarat*,1704-05)

[3] In the first case (*Waqa'i 'Ajmer*, I. pp. 607-8), the culprit was imprisoned and in another (*Maasir-i-Alamagiri*, p.188,), he was dismissed from the service.

some other punishments.[1] Emperor Akbar granted pardon to the culprit, the son of his dear foster-mother, Maham Anga who was also involved in that case. Perhaps it was out of regard for his foster-mother[2] (Case No. 24). Shah Jahan is said to have revised death sentence and granted amnesty to Rustam, convicted in a murder case in the final order[3] (case No. 25). Aurangzeb pardoned Suhrab who was condemned to death, on the recommendation of Prince Shah Alam that he was one of the efficient officials of the state (case No. 26). Aurangzeb is reported to have granted pardon to a young soldier in consideration of his sentiments though he ought to have been awarded capital punishment[4] (case No. 27). Aurangzeb did not take any action against a non-Muslim murderer who accepted Islam after committing a murder (case no. 28).

In seven cases (Nos. 29-35) the persons convicted for murder were merely punished with imprisonment. In one case (No. 29) the murderer was a non-Muslim whereas murdered were Muslims whom the murderer had illegally detained in his house. In addition to cutting off the tongue of the culprit, he

[1] The ruler is authorized to grant total amnesty or convert death-sentence into *diya* (blood-money) only in case the slain is heirless (Shaikh Nizam Burhanpuri, *Fatawa-i Alamgiri*, IV, p. 537).
[2] Abul Fazl, *Akbarnama*, II, p. 143.
[3] Bhimsen, *Nushka-i-Dilkusha*, ff. 27a-b.
[4] He had killed a custom officer on letter's insistence on checking the cart in which he was travelling with his wife (Manucci, *Storia*, II, p. 163.).

was awarded life imprisonment.[1] In one case (No. 30) a man was murdered by his own brother and no demand for retaliation was made by his mother. The culprit was ordered to be merely imprisoned.[2] In another case (No 31) a young servant murdered his master (A State- Official), because the latter had disgraced him. The governor merely imprisoned him for six months in spite of the demand for his execution by the relatives of the murdered. Their demand could not be conceded due to the popular belief that the boy had properly acted.[3] In four (32-35) of the eight cases the persons accused for murder were temporarily imprisoned, for either their cases had been reported to the Emperor for his verdict or investigation of their case was in process.[4] In three cases (No. 36-38) the culprits, who were state- officials, were dismissed from their posts as punishment for murder.[5] Two imperial servants, whose mutual fight led to the murder of several persons from amongst their followers were punished with demotion in their ranks[6] (case No. 39). In two cases (nos. 40-41) the property of the culprits were

---

[1] Jahangir, *Tuzuk*, p. 50.
[2] Jahangir, *Tuzuk*, p. 360.
[3] Tavernier, *Travels in India,* I, pp. 122-23
[4] *Waqai-i-Deccan*, p. 59; *Waqai-i-Ajmer*, I, p. 232; II, p.595; *Akhbarat*, (m.f.no. 258) ,(1697-98), ff. 22-23
[5] *Akhabarat*, (M.F. No. 257), (1683-84), ff. 24, 521, (1705-1706), ff. 197-98. In one (36) of these cases the murderer who was a mad man (not liable to the prescribed punishment) was imprisoned after dismissal from the service. Akbar, as stated above, had ordered for execution of Khwaja Muazzam, a mad man, in relation for murder of his wife (Badauni, *Muntakhab-ut Tawarikh,* II, p. 338).
[6] Ibid., 1701-02, f. 208

escheated as they had fled away and could not be arrested.[1] In one case (no. 42) the culprit, who had killed his wife on finding her in bed-with her lover, was merely subjected to monetary fine.[2] There is one case (no.43) in which the Emperor is reported to have ordered investigation, but no further details are available about it.[3]

It appears from analysis of the above mentioned cases of murder that the punishments prescribed by *shari'at* were not followed by the Mughals in dealing with most of these cases.

The cases in which the punishment sanctioned by the *shari'at* was awarded to the culprit are less in number then those in which the punishment ignored the *shari'at*. Even in cases in which the punishment awarded was in accordance with the *shari'at*, the mode of execution was not within the limits laid down by the *shari'at*. One thing, however, is quite clear from all the above cases that no distinction was made between Muslim and non-Muslim regarding the punishments.

- ***Tazir:*** It has already been stated that the *tazir* is a reformative punishment, prescribed for those offences which are out of purview of the *hudud*. The offences punishable under *tazir* may be related to

---

[1] *Waqai-i-Ajmer*, I, p. 265; *Waqai-i-Deccan*, p. 53.
[2] Fryer, *New Account of East India,* I, p. 245.
[3] *Akhbarat*, (1705-06), f. 185.

religion, public security and public morals as counterfeiting coins, minor thefts, gambling, deformation of religion, negligence of official duty, mis-appropriation of state treasury etc. Though the punishment under *tazir* is entirely left to the discretion of the judges, the punishment under this category has been generally listed by jurists as reprimand, imprisonment, public parading, flogging, and monetary fine, etc. Some jurists are also of the view that the degree of punishment under *tazir* varies from person to person in accordance with age, box, social status of the offender and the nature of crimes. All those offences excluded from the jurisdiction of *hadd* could easily be adjusted under *tazir* should not exceed the limits of the *hadd*.[1]

As regard the implementation of the above provisions of *tazir* in Mughal India, Aurangzeb's *farman* on penal code is the only source which discusses the problem in some details. The *farman* mentions those offences in which the offender could be penalized under *tazir*. They are as follows:

1. Counterfeiting coins – Whoever counterfeits coins for the first time shall be chastised and reprimanded and then set free. But in case he

[1] *Hidaya*, II, pp. 513-14. Mawardi, *Al-Ahkam-us Sultania*, p. 205. According to Abu Hanfia and Imam Muhammad, the minimum punishment under *tazir* is three lashes and maximum thirty nine. Abu Yusuf thinks that at maximum seventy five lashes may be given. (Ibid).

repeats the offence, he shall be chastised and imprisoned till he repents. A habitual counterfeiter, however, will get perpetual imprisonment.[1]

2. Acquisition of Property by Cheating – A person who falsely represents himself as alchemist and cheats other people of their properly, shall be chastised (*tazir*) and imprisoned till he repents. The property in question shall be restored to the legal owner or be deposited in the bait-ul mal.[2]
3. Deceitful administration of poison – One who deceitfully gives poison to a person causing his death, shall be punished with chastisement (*tazir*) and imprisoned till the guilty shows repentance for his action.[3]
4. Kidnapping – Kidnapper of another's wife or children shall be punished with imprisonment till he restores the kidnapped to the husband or legal guardian. Otherwise he would be permanently kept in prison.[4]
5. Gambling – Those who are convicted of gambling for the first time shall be chastised. In case they repeat the offence, they shall be put in prison after chastisement till they show repentance. If they become

[1] *Khan*, Ali Muhammad, *Mir'at*, I, p. 280.
[2] Ibid., p. 281.
[3] Ibid., p. 281.
[4] Ibid., p. 281.

> professional gamblers they will get life imprisonment. The property involved in the game shall be restored to the legal owner, if he is available otherwise deposited in *bait-ul-mal.*[1]

Besides, we are informed by certain contemporary sources that in Mughal India the punishment under *tazir* was awarded according to the rank and status of the culprit, since it was believed, "a severe glance was like death to a man of noble family, while a kick would not reform a wicked person."[2]

Some cases are mentioned here which give an idea as to the kind of punishment given for offences coming under the jurisdiction of *tazir*. In 1582, *Qazi* Jalal Multani was ordered by the Emperor to be dismissed from the post of chief *qazi* and exiled to the Deccan for his dishonesty and misappropriation of the state treasury.[3] Itimad-ud-Daula, who had embezzled five thousand rupees in the reign of Jahangir was punished with imprisonment.[4] Safi Khan, the governor of Bihar, was ordered by Aurangzeb to be kept into the custody of Mughal Khan for misappropriating fifty six thousand rupees from the state treasury till no paid back the amount.[5] It was brought to the notice of Aurangzeb that Amir Habibullah of Jaunpur, *amin-i-*

---

[1] Khan, Ali Muhammad, *Mir'at*, I, p. 281.
[2] Ma'asir-ul Umara, III, pt. I, p. 162; Khan, Ali Muhammad, *Mir'at*, I, p. 166.
[3] Badauni, *Muntakhab-ut Tawarikh,* II, p. 313; Akbar Nama, III, pp. 377-78.
[4] De Laet, *'De Imperio Magni Mogolis'*, p. 178.
[5] Saqi Musta'id Khan, *Ma'asir-i- Alamgiri*, p. 266.

jizya, was detained by Inayat-ullah Khan on his confession for cheating the imperial treasury of Rs. 40,000. Some collectors were appointed to exact money from him. The Emperor granted him person as he was reported to have spent all the money for charitable purposes.[1]

We are informed by Badauni that during the reign of Akbar counterfeiters were punished with monetary fine.[2] The deficiency in weight was also an offence covered by *tazir*. Muhammad Baqar, a *muhtasib* of Aurangzeb's reign, put a milkman in prison for using deficient weight and did not release him even on his wife's representation to the higher authorities.[3]

The abduction of a child or a girl was also liable to be dealt with under the *tazir*. The punishment awarded by the Mughals for this offence varies from period to period. Jahangir awarded capital punishment to the main culprit in a case of abduction in which the abducted girl had died while in the custody of the abductor.[4] Shah Jahan dismissed a soldier and banished him from the country for abducting the slave-girl of a Hindu clerk.[5] Aurangzeb is reported to have ordered the imprisonment of Nur Ali, a state official, who had abducted a Rajput girl. The culprit was also required to restore the girl to her

---

[1] Hamiduddin Khan, *Ahkam-i-Alamgiri*, pp. 53-54.
[2] Badauni, *Muntakhab-ut Tawarikh*, II, p. 280.
[3] *Waqa'i 'Ajmer*, I, p. 223.
[4] Jahangir, *Tuzuk*, p. 83.
[5] Manucci, *Storia*, I, pp. 195-96.

parents and he did so.[1] It seems that there was no uniform rule of punishment for abduction.

For negligence in duty and abuse of authority, the government servants or state officials were punished with dismissal from their post, transfer of *jagir*, resumption of or demotion in ranks besides the usual punishments given in the *tazir*. The cases recorded in the sources show that the state officials were chastised in above mentioned ways for negligence in official duty, inefficiency in work, misbehaviour with the public, injustice, dishonesty, etc.[2]

Imposition of monetary fine was a controversial matter among the *Hanafite* jurist. Abu Hanifa considered it unlawful, while according to Abu Yusuf it was permissible.[3] The same controversy existed during the Mughal period also. It is evident from the *A'in-i-Akbari* that the monetary fine was included in the list of penalties prescribed by the state.[4] Badauni states that during the reign of Akbar fines were imposed on persons charged with counterfeiting of

---

[1] *Akhbarat*, (1705-06), p. 158. Aurangzeb's penal code prescribes for this offence either severe chastisement or public parading or banishment, (Khan, Ali Muhammad, *Mir'at*, I, p. 282).

[2] Badauni, *Muntakhab-ut Tawarikh*, II, pp. 277-78; Abul Fazl, *Akbarnama*, III. Pt. I, pp. 315-16; Jahangir, *Tuzuk*, pp. 306, 336; Khan, Ali Muhammad, *Mir'at*, I, 305; *Akhbarat*, (M.F. No. 257),(1683-84), f. 133; Hamiduddin Khan, *Ahkam-i Alamagiri*, pp. 35-36; Elliot & Dowson, *History of India an told by its own Historians*,(London 1877), VII, p. 62.

[3] Ibn-i-Taimiya, *al-Siyasat-ush Shariah*. pp. 53-58.

[4] Abul Fazl, *A'in*, I, p. 98.

coins.[1] The practice of imposing fines continued during the reign of Jahangir. The *Tuzuk* states that two persons, namely – Raju and Amba had made oppression and tyranny their profession under the leadership of eunuch Daulat Khan. The Emperor ordered Raju to be executed and a fine of one lac and forty thousand rupees was realized from Amba who was a wealthy man.[2] Writing in the reign of Shah Jahan, Manrique says that the *shiqdar* of Midnapur was charged a fine of two hundred rupees for arresting and harassing him and his party.[3] There seems to be a contradiction with regard to the state attitude toward monetary fines during Aurangzeb's reign. He issued an order proclaiming that is was illegal, and warned the officials that the violation of this rule would mean severe action.[4] But he is reported to have imposed a fine of fifty thousand rupees on Prince Muhammad Azam (in addition to the transfer of this *jagir*) for his misbehaviour with a lady.[5]

From the above discussion it may be deducted that the Mughal Emperors treated the Muslims and non-Muslims alike in the application of the penal law for various offences. In dealing with the problem of crime and punishment they generally acted according to their own discretion and rules

[1] Badauni, *Muntakhab-ut Tawarikh*, II, p. 280.
[2] Jahangir, *Tuzuk*, p. 35. The amount was distributed in charity.
[3] *Travels of Manrique*. (ed. Luard and Hoston), Hakluyt Society Edition), I, p. 425.
[4] Khan, Ali Muhammad, *Mir'at*, I, p. 293.
[5] Hamiduddin Khan , *Ahkam-i Alamgiri*, pp. 29-30. The amount collected from the Prince was deposited in public treasury (Khazana-i-'Amira).

and they did not always follow the *shari'at* laws. There are a number of cases in which punishment did conform to the Islamic penal code, but its mode of execution clearly violated it. Impaling, trampling under feet of elephants, throwing before come beasts, drowning in water adopted by the Mughals to inflict death penalty is not permitted in the Islamic law. They had prohibited mutilation of limbs.[1] But there are to show that in practice this punishment was prevalent.[2] It is, however, clear from the recorded cases that they resorted to the unlawful mode of punishment generally in cases of rebellion, treason and broach of peace and order and the main motive was to create terror in the hearts of other people or to make the punishment exemplary. It is also to be noted that the foreign travelers have presented a distorted picture of the Mughal administration. If there were extent proceedings of the Mughal judiciary, we would have been in a better position to examine the Mughal legal-punitive system.

---

[1] Jahangir, *Tuzuk*, pp. 4, 50, 190; Qazwini, *Padshahnama*, p. 252; Khan, Ali Muhammad, *Mir'at*. I, pp. 187, 190.
[2] Abul Fazl, *Akbarnama*, I, p. 140; Jahangir, *Tuzuk*, p. 214; Saqi Musta'id Khan ,*Ma'asir-i Alamgiri*, pp. 93-94; Manucci, *Storia*, I, p. 241.

Appendix

Sno	Name of the murdered person	Designation and position	Murdered By	In the rein of	Executed in retaliation or given other kind of punishment	Pardoned	By heirs of the murdered or at the instance of government	Lawful or unlawful	Sources
1.	Azam Khan	Prime minister of Akbar	Adham Khan	Akbar 17 May 1561	Killed(hands and feet bound, caste down from the top of terrace of the royal palace	----	By the order of the emperor	Unlawful mode of punishment	*Muntakhab-ut-Tawarikh*, II , pp. 52-53; *Akbarnama*, II, pp. 175-176;*Tabaquat-i-Akbari*,I, p. 257.
2.	Wife of Khwaja Muazzam	-	Khwaja Muazzam (Maternal uncle of Akbar domed man)	Akbar 1563	Executed according to another reference in same source, the Mansabdar was imprisoned at Gwalior where he died.	----	At the instance of the government	Unlawful mode of punishment	*Muntakhab-ut-Tawarikh*, II, p. 71; III, p. 338 *Akbarnama*, II , pp. 216-19; *Tabaquat-i-Akbari*, II, pp. 175-76.
3.	*Muftis*	Who had given verdict for execution of those persons who had attacked and wounded Qazi Habib	Mirza Muqim	Akbar Feb 1569	Executed	----	By the order of the emperor in accordance with the *Fatawa* of Abd-un-Nabi and other ulama	Lawful	*Muntakhab-ut-Tawarikh*, II, p. 124
4.	Changez Khan	One of the King of Gujarat	Jujhar Khan (Amir of Gujarat)	Akbar 19th Mar 1573	Killed(thrown under the feet of an elephant)	----	On demand of the mother of the murdered(Often case was investigated on the order of emperor)	Unlawful	*Muntakhab-ut-Tawarikh*, II, p. 147 *Akbarnama*, III , p. 32 *Tabaquat-i-Akbari*, II,p.263
5.	Alauddin	Amai Guzar (Revenue Collector)	Talib (Servant of Mirza Aziz	Akbar 19th Mar 1579	Executed	----	By the governor	Unlawful	*Akbarnama*, III, p. 266; *Iqbalnama-i-Jahangiri*,p. 327

Sno	Name of the murdered person	Designation and position	Murdered By	In the rein of	Executed in retaliation or given other kind of punishment	Pardoned	By heirs of the murdered or at the instance of government	Lawful or unlawful	Sources
			and governor of Gujarat)						
6.	Khwaja Alam	Khwaja Sara	One of the wrestler	Akbar 1581	Executed	----	By the order of the emperor	Lawful	*Akbarnama*, II, p. 351
7.	Mulla Ahmad Thattawi	A Shia Scholar	Mirza Faulad Beg	Akbar 3rd Jan 1588	Executed	----	By the order of the emperor	----	*Muntakhab-ut-Tawarikh* ,II, p. 364-65 *Akbarnama*, II, p. 527
8.	Yadagar Halti	A poet of Kashmir	Baqai (Son of Murdered)	Akbar 1588	Executed	----	By the order of the emperor	Unlawful as Yadagar was killed by poisoning	*Muntakhab-ut-Tawarikh* , III, p. 222
9.	Mother of Pahar	-	Pahar (Governor of Jallore), a place in Jodhpur	Jahangir 1616	Executed	----	By the order of the emperor after enquiry in the case	Lawful	*Tuzuk –i- jahangiri* ,p. 174
10.	An owner of a house	-	A thief	Jahangir 1617	Executed	----	By heirs of the murdered at the order of the emperor	Lawful	*Tuzuk –i- jahangiri*, p. 214
11.	Untraceable	-	Hushang	Jahangir 1620	Executed	----	By the order of the emperor after getting legal proof for the murder	Lawful	*Tuzuk –i- jahangiri*, p. 33;*Ma'asir –i-Jahangiri*, p. 335
12.	Ali Naqi	-	Prince Muradbaks	Shahjahan 16th Nov 1661	Executed by Sword	----	On demand of the son of the murdered, The emperor ordered the execution after getting legal proof for the crime and judgement of the *qazi*	Lawful	*Amal-i Salih*, III, pp. 349-45;*Futuhat-i-Alamgiri*, ff. 47b-48a
13.	Qazi Abul Mukrim	Qazi (Son of Qazi Abdul Wavab)	Two disciples of Audhu Bairagi (A	Aurangzeb 3rd June 1669	Executed	----	By the order of the emperor	Lawful	*Ma'asir-i-Alamgiri*, p. 85

Sno	Name of the murdered person	Designation and position	Murdered By	In the rein of	Executed in retaliation or given other kind of punishment	Pardoned	By heirs of the murdered or at the instance of government	Lawful or unlawful	Sources
			hindu jogi)						
14.	Qazi Ali Akbar	Qazi of Lahore	Qamaruddin Khan (Governor), Nizzamuddin (Kotwal of Lahore)	Aurangzeb 16th Jan 1680	Executed	----	By heirs of the murdered (after investigation of the case of the instance of the emperor)	Lawful	*Ma'asir-i-Alamgiri*,p. 188; Khafi Khan, II, pp. 256-57
15.	Farzam Barlas	Fauzdar of Attock	His Nephew	Aurangzeb 13th Mar 1672	Executed	----	By the heirs of the murdered(in accordance with the discussion of the qazi)	Lawful	*Ma'asir-i-Alamgiri*, p. 126
16.	A jeweler	-	Tiwari	Aurangzeb 13th Mar 1700	Executed	----	At the instance of the government with the consent of the heirs	Lawful	*Akhbarat* , (1701-02). f.149
17.	2 Portuguese women	-	A Portuguese	Aurangzeb 13th Mar 1700	Executed	----	At the instance of the government after the demand of the heir for the some money(the Portuguese had refused)	Lawful	Manucci,II, p. 425
18.	An English man	-	The follower of Pehelwan Safad	Jahangir Oct 1623	----	Pardoned in return for blood money	With the consent of the chief of the east India Company only.	Lawful	English factories in India, (1622-23) II, p . 284
19.	Mania	A potter	Sundarbai	Aurangzeb 4th July 1678	----	Pardoned	By the heirs of the murdered	Lawful	*Waqa'i 'Ajmer*, p. 2
20.	Brother of Din Mohammad	-	Chitra(Muqaddam of Sarsaroi, Ajmer)	Aurangzeb Apr, 1679	----	Pardoned	By the brother of the murdered	Lawful	*Waqa'i 'Ajmer*, p. 200
21.	Ganga Ram	A servant of	Anandi	Aurangzeb	----	Pardoned	By the heir of the	Lawful	*Waqa'i 'Ajmer*, pp. 607-

Sno	Name of the murdered person	Designation and position	Murdered By	In the rein of	Executed in retaliation or given other kind of punishment	Pardoned	By heirs of the murdered or at the instance of government	Lawful or unlawful	Sources
		Anondi (Beldar)		1680		but imprisoned by the governor as deterrent	murdered		608
22.	Qazi Ali Akbar	Qazi of Lahore	Quamruddin khan (Governor of Lahore)	Aurangzeb 16th Jan, 1680	----	Pardoned (only dismissed from the service)	The heirs did not demand execution or blood money(at the instance of the government)	Lawful	*Ma'asir-i-Alamgiri*, p. 188
23.	Chatta	-	Pir Mohammad	Aurangzeb 1703	----	Pardoned	By the heirs of the murdered	Lawful	*Akhbarat*, (1704-05)
24.	Two court ladies	-	Maham Anga (Step mother of Akbar)	Akbar 17th May 1561	----	Pardoned	By the emperor (out of regard for his mother)	Unlawful	*Akbarnama*, II, p. 143
25.	Paternal aunt of Rustam	-	Rustam (A mansabdar)	Shahjahan	----	Pardoned	By the order of the emperor as he revised his judgement for execution of Rustam	Unlawful	*Nushka-i-Dilkusha*,ff. 27a
26.	Ahad beg	A soldier in the army of Prince Mohammad Akbar	Suhrab (Another soldier of the same army)	Aurangzeb Sept 1680	----	Pardoned	By the emperor (on the intercession of prince shah alam)	Unlawful	*Jaipur Akhbarat*, (1682-83), 1680
27.	A custom officer	-	A soldier who was enraged on checking by officer	Aurangzeb	----	Pardoned	By the emperor (in consideration of sentiments of the young soldier	Unlawful	Manucci, II, p. 163
28.	Didar Khan and sister of	-	A scribe	Aurangzeb	----	Pardoned	By the emperor (on offer of the scribe to accept	Unlawful	Bernier , p. 131

Sno	Name of the murdered person	Designation and position	Murdered By	In the rein of	Executed in retaliation or given other kind of punishment	Pardoned	By heirs of the murdered or at the instance of government	Lawful or unlawful	Sources
	a scribe						Islam)		
29.	Parent of a Muslim women	-	Kalyan (son of Raja Vikramajit)	Jahan gir 1607	Given life imprisonment	----	By the order of the emperor	Unlawful	*Tuzuk –i- jahangiri*, p. 50
30.	Mirza Badi Uzzaman	Son of Mizja Shahrukh	Brother of Badiuzzam ----an	Jahangir 1622	Imprisoned	----	By the order of the emperor (mother of murdered did not demand retaliation)	Lawful	*Tuzuk –i- jahangiri*, p. 360;*Mi'rat-i-Ahmadi*, I, p. 195
31.	A military commander	A mansabdar of 1000	His servant	Shahjahan	Imprisoned for 6 months	----	By the governor (in spite of demand by the relative of the murdered for execution)	Lawful	Tavernier , I, pp. 122-23
32.	Wife of Mohammad Raza	-	Moh. Raja (Yaswal, officer of Parade)	Aurangzeb , 1st Aug 1661	Imprisoned	----	By the governor	Lawful	*Waqa'i Deccan*, p. 59
33.	Aasa	Resident of Jodhpur	Pal	Aurangzeb ,1679	Imprisoned	----	By the governor	Lawful	*Waqa'i 'Ajmer* ,p. 232
34	Tayyab	A connouier	Jan Moh. (Who was enraged on hearing unethical language about his spiritual mentor)	Aurangzeb , 1680	Imprisoned	----	By the governor, awaiting imperial order about the case	Lawful	*Waqa'i 'Ajmer*, p. 595
35.	Mohammad Amin Kashmiri	-	Salamat Khan	Aurangzeb ,20th Oct 1695	Imprisoned	----	By the kotwal(who was ordered by the emperor to do the same on representation by the heirs of the murdered)	UnLawful	*Akhbarat* , (1697-98), ff. 22-23

Sno	Name of the murdered person	Designation and position	Murdered By	In the rein of	Executed in retaliation or given other kind of punishment	Pardoned	By heirs of the murdered or at the instance of government	Lawful or unlawful	Sources
36.	A mace-bearer	-	Moh. Salih,Mansabdar of 1000/250	Aurangzeb ,13 Nov 1681	Dismissed from Service	----	By the order of the emperor	Lawful	*Akhbarat* , (1683-84) ,f.403
37.	Three revenue collectors	-	Vijay Singh,A mansabdar of 500/30	Aurangzeb , 21 Dec 1681	Dismissed from Service	----	By the order of the emperor	Lawful	*Akhbarat* , (1683-84, f.521
38.	Kalawant	A State official	Ajab Singh	Aurangzeb , 23rd Feb 1670	Dismissed from Service	----	By the order of the emperor	Lawful	*Akhbarat* ,(1704-05), ff.197-98
39.	Some followers of Fazl Ali Khan and Motamad Khan (*Mansabdar*)	-	Not mentioned	Aurangzeb , 9th Sept, 1700	Fazl Ali Khan and Motamad Khan were demoted	----	By the order of the emperor	Lawful	*Akhbarat* ,(1701-02), f.208
40.	Buddhu	-	Manohar	Aurangzeb	Property of the murdered was confiscated by a minor	----	At the instance of the governor	Lawful	*Waqa'i 'Ajmer*, p. 26J
41.	Sheikh Taz and Syed Baqi	Servant of Iradad Khan ,Qiladar of Zafarnagar	Jalan Afghani	Aurangzeb , 14th Mar 1663	Property of the murdered was confiscated	----	At the instance of the governor	Lawful	*Waqa'i Deccan*, p. 53
42.	A house wife	-	His husband	Aurangzeb	Subjected to monitory fine	----	At the instance of the governor	Lawful	Fryer ,I, p. 245
43.	Abdul Momin	A mystic	Unknown	Aurangzeb , 17th Oct 1704	Kotwal was ordered to investigate	----	By the order of the emperor	Lawful	*Akhbarat*, f.185

V

Crime control machinery of the state

Akbar divided the entire empire in *subahs* or provinces. The head of administration in the *subah* was called *sipahsalar* or commander, though later the word *subahdar* began to be used. The head of the *subah* or governor was assisted by a *diwan*, a *bakshi*, a *sadr*-cum-*qazi*, a *Mir Adl* for justice, a *kotwal*, a *mir bahr* or superintendent of rivers and ports, and a *waqia-navis* or news-writer. These officers were subordinate to the governor but were not appointed by him. They were appointed directly by the Emperor, and were answerable to him, and to the head of their ministry at the centre.

The Emperor was the highest authority in the kingdom and was the foundation of justice. One of the strongest features of the Mughal justice was that the Emperor allowed their subjects the rights of direct access to the sovereign. Humayun had instituted a drum of justice. Akbar appointed a *Mir Arz* (in charge of petitions) who had to be continuously present in the palace. Once, Akbar appointed seven such officers with Abdur Rahim Khan-i-Khanan as their head. Another form of direct access was *Jharokha-i darshan*.[1]

[1] Lahori, *Padshahnama*; Badauni, *Muntakhab-ut Tawarikh*

The Emperor was the highest court of appeal as well as the court of first instance. The Mughal Emperor used to hold his court everyday where ordinary cases were decided. Every Mughal Emperor, set apart a day in the week exclusively for holding a *mazalim* court in the *daulat-khana-ikhas* after the *jharokha.* Akbar[1] (Thursday), Jahangir[2] (Tuesday), Shahjahan[3] (Wednesday), Aurangzeb (two days including Wednesday).

Father Monserrate praised Akbar's reign "for right and justice in the affair of government."[4] William Hawkins who visited India during Jahangir's reign (1608-13), remarked that the Indian kings sat "daily in justice everyday"[5]. Nicholas Withington (1612-16) observed that Jahangir sat in his court at Agra three times a day to administer justice.[6] Edward Terry (1616-19) confirms this and adds that any complainant there could hold up his petition and was sure to receive a hearing.[7] According to William Hawkins, Jahangir came to the Audience Hall at 3'o clock and took his seat on the royal throne

---

[1] Abul Fazl, *Akbarnama*, III, 717.
[2] Sir Thomas Roe, *The Embassy* ,p. 87; De Laet, *'De Imperio Magni Mogolis'* , p. 93; *Early Travels*, Hawkins, p. 116, Finch, p. 184
[3] *Mughal Administration*, 4th ed., p. 94.
[4] Monserrate's *Commentary*, pp. 209-12
[5] Foster, *Early Travels* in India, p. 112
[6] ibid, p. 225.
[7] ibid, p. 326.

while his nobles and *mansabdar's* kept standing. For two hours he 'heard all cases in this place.'[1]

The foreign travelers have also referred to the golden chain of justice during Jahangirs time. Any complainant who failed to secure justice could ring the bell. The Emperor sent up for him, examined the case and pronounced judgement or took any other appropriate action.[2]

Shahjahan upheld the maxims of his father that true justice must be enforced.[3] Aurangzeb was desirous of appearing a great lover of justice.[4] He maintained that a king should apply himself unworriedly and painstakingly to the dispensing of equal justice to everybody.[5]

The Mughal Emperors, even when out of the capital, did not neglect the cause of justice. While embarking on the Bengal expedition, Akbar held his court in the boat and decided cases there.[6] During his stay in Ahmadabad in 1618, Jahangir appeared in the *Jharoka* every day for about three hours to administer justice and award punishment to the guilty.[7]

---

[1] Foster, *Early Travels* in India, pp. 115-116

[2] Foster, *Early Travels in India*, (William Hawkins) p. 113; William Finch, p. 184; Nicholas Withington, p. 226; Manucci, *Storia*, I, p. 174

[3] Manucci, *Storia*, I, p. 167

[4] Manucci, *Storia*, III, p. 260

[5] Manucci, *Storia*, III, p. 261

[6] Abul Fazl, *Akbarnama*, III, p. 88; Bev., II, p. 124; *Tabaqat-i Akbari*, II, p. 285; De, pp. 436-38

[7] Jahangir, *Tuzuk*, II, p 214.

The Emperor was followed by officers' like- *Qazis*, muftis, scholars and *kotwal.* Besides the special day reserved for administering justice, the Mughal Emperor used to hear cases in the *Diwan-i-Am,* on almost all the days of the holding of the court. According to Bernier, Aurangzeb devoted two hours on another day to hear in private the petitions of ten persons selected from the lower order. One day he fixed to attend the justice-chamber, called '*Adalat Khana'*, where he was assisted by two principal *qazis*[1]. One thing is clear that trials in *Mughal* India by the kings were speedy and so the punishments.[2]

Governor

The governor, like the Emperor, set apart a day for administering justice in person.[3] The troops and subjects of the *subah* were under his orders; and the prosperity of his *suba*; it was believed, depended upon his impartial distribution of justice.[4] Each division of the kingdom, he should entrust to zealous upright men and provide for the safety of the roads by the

[1] Bernier;*Travels in the Mughal Empire* (constable), p. 360.
[2] William Foster, *Early Travels*, p. 326
[3] Khan, Ali Muhammad, *Mir'at-i Ahmadi*, I, p. 275
[4] Abul Fazl, *A'in*, II, p. 38, trans. By H.S. Jarret.

establishment of trusty guards and from time to time receive reports of them.[1]

"He should never release robbers by taking anything from them, because this practice amounts to sowing the seed of oppression as other rich men, knowing that they can secure impunity by giving bribes will practice very great tyranny, so that it will, in the end by very difficult for you to control them."[2]

As the executive head of the whole province, he was responsible for the general administration, welfare and prosperity of the people. In his judicial duties, the governor was expected to get help from the *qazi*. The punishments inflicted by him included reprimands, threats, imprisonments, stripes of amputation of limb (i.e. mutilation) prescribed in the Quran, but not fines. But he was enjoined to use the utmost deliberation before inflicting the capital sentence, and to report all such cases to the Emperor for orders.

Faujdar

He was the direct imperial representative in the district. Appointed by an imperial *farman*, he was its executive head, through whom the Emperor kept

[1] Abul Fazl,*A'in*, II, p. 39, trans. By H.S. Jarret.
[2] Manual,13-14

contact with and control over the people of the district. Subordinate to the governor, he was responsible for the maintenance of law and order in the district. He took measures to guard the roads against the activities of the robbers. Whenever a robbery took place in his jurisdiction, he was to trace the robbers, find out the lost goods, or compensate the sufferer.[1] He sent the captives to the governor[2] for investigation and punishment.

Kotwal

Kotwal was the chief police of the city or town. The *Kotwal* was usually appointed by the imperial government at the recommendation of the *mir-i-atish* through a *sanad* bearing his seal.[3] The functions of *kotwal* were very comprehensive.[4] Akbar's *farman* enjoins that a *mir-i-mahalla* (head of a ward) should be appointed so that the good and bad of that street may happen under his direction. A spy should visit him (*mir-i-mahalla*) every night and day to write the events of that street. It should be so settled that

---

[1] Thevenot, *Indian Travel*, III, p. 35

[2] Khan, Ali Muhammad, *Mir'at-i Ahmadi*, I, p. 282

[3] Khan, Ali Muhammad, *Mir'at* (suppl), p. 178

[4] See *A'in*, I, pp. 284-85; Badauni, *Muntakhab-ut Tawarikh*, II, p. 390; Khan, Ali Muhammad, *Mir'at*, I, pp. 168-70; Pelsaert, *Remonstrantie*, p. 57; Manrique, *Travels*, II, pp. 188-89; Tavernier, *Travels in India*, I, p. 447; Bernier, p. 369; Thevenot, *Indian Travel*, pp. 12,27; Fryer, *New Account of East India*, I, p. 246; Ovington, pp. 137-38; Hamilton, p. 321; Manucci, *Storia*, I, pp. 292, II, pp. 295-96.

whenever a thief comes or there is fire or some unpleasant event take place, the neighbor should immediately rush to his (the victims) help.[1]

The prevention of theft, other crimes and murder within the limits of the town was another important responsibility of the *Kotwal*. The *kotwal* was to establish night watch (*chauki*) in every *mahalla*.[2] He himself was to ride out patrolling the streets thrice a night. With the men of his patrolling party loudly pronouncing the word *Khabardar* (Alert!).[3]

Whenever he got information of a theft or dacoity, the *kotwal* had to go these with his force to the spot. There are reports of severe encounters with the *dacoits*.[4] The *kotwal* under all circumstance was required to apprehend the guilty and recover stolen property. If he failed, he had to compensate the victims for all the thefts, crimes and murders committed within his jurisdiction.[5]

He was instructed particularly to discover the real culprit and so deal with him as to prevent recurrence of the crime. In order to check theft and crime, he had orders not to allow people to enter or leave the town after nightfall,

---

[1] Khan, Ali Muhammad, *Mir'at*, I, pp. 168-70
[2] *Waqa-i- Ajmer*, pp. 286, 497; *Akhbarat*, doc. No. 1526,(1683-84); Thevenot, *Indian Travel*, pp. 27-28; Bernier, p. 369.
[3] Ovington, p. 137; Thevenot, *Indian Travel*, pp. 27-28.
[4] *Akhbarat*, document no. 1146, (1682-83); Ms. Fraser 124, ff, 469b- 70a.
[5] *Shahjahan-nama*, p. 327; Tavernier, *Travels in India*, I, p. 47; Thevenot, *Indian Travel*, p. 28.

without his *dastak* (pass).[1] After sunset all the gates of the town were shut and heavily guarded.[2] One another important function of the *kotwal* was the control and supervision of markets. If anybody died in a town or its suburbs, no matter whether resident of the same town or a stranger the *kotwal*, on being informed, was to take possession of the entire property and after strict search and inventory, it was to be sealed (with the seals of *kotwal* and *qazi*) and then kept at the *chabutra-i kotwali*. If, after sometime, the heir happened to appear and the genuineness of his claims was proved to the satisfaction of the *kotwal*, and certified by the *qazi*, the property was to be handed over to him after some deduction; otherwise, it was deposited in the *baitulmal*.[3]

The *A'in* instructs the *kotwal* "not to allow a woman to be burnt against her wishes, nor a man to commit suicide nor anyone to be circumcised below the age of twelve".[4]

The *A'in* further requires him to "direct that no ox or buffalo or horse or camel be slaughtered and forbid the restriction of personal liberty and sale of slaves."[5] The *kotwal* was also to prevent the kidnapping of girls[6] and forced

[1] Foster, *The English Factories in India.* (1622-23) p. 258; *Akhbarat*, document no. 2304, 1685-86; Khafi Khan, II, pp. 172-73; Tavernier, *Travels in India,* I, p. 47; Hamilton, p. 321.
[2] Vakil report, bundle no. I, document no. 321, undated.
[3] Khan, Ali Muhammad, *Mir'at*, I, p. 169.
[4] *A'in*, I, p. 284.
[5] *A'in*, I, p. 248.
[6] *Waqa-i- ajmer*, p. 265

marriages[1]. Prostitutes and dancing-girls were always at his mercy.[2] Nobody could openly drink and sell intoxicants.[3] He was also to see that religious sentiments of any community were not wounded by provocation or abuse, and communal harmony was maintained.[4]

The method usually adopted by the *kotwal* to make a suspect confess his crime was to give him a severe whipping or torture him in many ways. "When any one is robbed" say Thevenot, "this officer apprehends all the people of the house both young and old where the robbery hath been committed and cause them to be beaten severely. They are stretched out upon the belly and four men hold him that is to be punished by the legs and arms, and two others have each a long whip of twisted thongs of leather made thick and round, wherewith they lash the patient one after another, like smiths striking on an anvil, till he have received two or three hundred lashes, and be in a gore of blood. If at first he confess not the theft, they whip him again next day, and so for several days more, until he had confessed all, or the thing stolen be recovered again; and what is strange the *kotwal* neither

---

[1] *Waqa-i- Ajmer*, p. 265; Badauni, *Muntakhab-ut Tawarikh*, II, p. 391
[2] *Hidayat-al- Qawanin*, p. 30 b; *Akhbarat*, document no. 1699, 1667-68; Manucci, *Storia*, II, pp. 395-396.
[3] *Hidayat-al- Qawanin*, op. cit; Khan, Ali Muhammad, *Mir'at*, I, p. 169; *Waqa-i- ajmer*, p. 183, EF (1622-23), introduction , p. XIX; Manucci, *Storia*, op. cit.
[4] Ms. Fraser 124, ff. 170 b- 171 a

searches his house or goods, but after five or six days, if he do not confess he is dismissed".[1]

European travelers have described the *kotwal* as 'city magistrate', 'criminal judge', [2] etc. From the references on record, it can be seen that in the minor cases and petty irregularities, the *kotwal* had judicial powers. According to Mandelslo, the *kotwal* of the capital was included in the Emperor's Privy Council.[3] Manucci states that he was to keep eye on bad characters and maintained peace and order in the area under his jurisdiction.[4] Manrique even remarks that the *kotwal* also acted as the chief custom officer.[5] For instance it was reported from *pargana Unhel, sarkar* Ujjain (*suba* Malwa), that one Mohan had two wives who used to quarrel almost daily. The man took them to the *kotwal* and lodged a complaint with *kotwal.* Both the wives were put in the lock-up for three days. On the fourth day, the *kotwal* sent for both the women and interrogated them; on finding both of them guilty, he had them whipped and after sometime released them on the assurance that they would not quarrel again. Mohan had to pay one rupee on account of

---

[1] Thevenot, *Indian Travel*, p.28.
[2] Pelsaert, *Remonstrantie,* p. 57; Manrique,*Travels,* I, p.418; Peter Mundy, *Travels,* II, p. 233; Manucci, *Storia*, I, pp. 197-8, II, pp. 420-21
[3] Mandelslo , *Mandelslo's Travels in Wetern India,* p. 118
[4] Manucci, *Storia*, II, p. 419-20
[5] Manrique, *Travels,* I, p. 18

expenses for keeping his wives in the *Chabutra.* The rupee was deposited in the government treasury.[1]

Similarly, in another case the *kotwal* acted as a judge. The *waqa-i sarkar* Ramgir, dated 28th February, 1662, records that one Chand, a *Baksariya* trooper, under the influence of drink, snatched his companion Dewal's sword and wounded him for which he was taken into custody by the *Kotwal.* When the wounds of Dewal healed, Chand was set free, but he was ordered by the *kotwal* to pay a sum of Rs. 2 to Dewal as compensation.[2] The English factors at Broach inform that certain Englishmen at Broach went out of the town during the night without the permission of the *kotwal.* On being informed of this, the *kotwal* seized them and had them mercilessly beaten; a bit later they were released.[3] The *waqai* of Aurangabad, dated 1st March, 1663, reported that three men named Man, Daud and Sahu came to Chaukbazar, for selling cloth. One Premji came to the *kotwal* and reported that the cloth brought by them for sale was stolen property. The *kotwal* there upon got all the three imprisoned and their cloth seized.[4] Therefore, it was natural on the part of the *kotwal* to assume certain judicial powers, although

---

[1] *Akhbarat*, document no. 660, (1707-08)
[2] Selected *Waqa'i* of Aurangzeb reign (Hydrabad,1958) , pp. 78-79
[3] Foster, *English Factories in India* ,F (1622-23), p. 258
[4] Selected *Waqa'i*, p. 51.

there is no express reference in official sources to any judicial powers assigned to the *kotwal*.

Qazi

During the Mughal period, the department of justice (*daru'l-qaza*) was one of the significant administrative institutions of the town. While the duty of the *kotwal* and the *muhtasib* was to detect and apprehend offenders, the *qazi* was to investigate the offence with the help of witnesses, apply the law and pronounce judgment. Thus almost every town which had a large Muslim population had a *qazi*.[1] *Qazis* were appointed even in towns under autonomous chiefs. The army had its own *qazi* called *qazi-i lashkar* or (*qazi-i-Urdu*).

The judicial administration did not comprise the *qazi* alone. The *mufti*, *mir-i adl*, *dorogha-i kachehri qazi*, *vakil-i shar'i* (or *vakil-i sarkar*) and minor office-bearers such as *peshkar*, *sakkak*, *sahibu'*i *majlis*, *mushrif*, *amin*, *nazir*, *daftart*, *mirdahs*, *muchalka-navis* (or *munasakha-navis*) were the other functionaries of the court of justice (*kachehri* or *adalat khana*).

Generally, the *qazis* were supposed to be men of learning and scholarship. A *qazi* was required to be an adult, intelligent, a free man, a Muslim, a just

[1] Khan, Ali Muhammad, *Mir'at*, pp. 199, 211; 222-3; Khafi Khan, II, p. 630

person (*adil*), sound of sight and hearing and one who had sufficient knowledge of the law.[1]

Some *qazis*, especially of big towns, also held *mansabs*. The *qazi* used to be paid a daily allowance, and always had a revenue grant (*madad-i ma'ash*) attached to his office.[2] The *qazis* post was also transferable.[3] *Qazi* exercised original jurisdiction, civil and criminal, in the province and constituted the chief appellate court within the province, appeals coming from the district *qazis*. He was a member of the Governor's court as well.

The *qazi* was regarded as an arbiter settling disputes between persons who appealed to him.[4] He pronounced sentence of the law on delinquents against whom charges were brought by private persons. His business was to pass decrees on the opinion of others.[5] The *qazi* could decide all cases involving civil, religious and criminal law.[6]

The civil jurisdiction of the *qazi* included cases in respect of inheritance[7], marriage, divorce[8], marriage with non-Muslims[9], disposal of stolen property,

---

[1] Badauni, *Muntakhab-ut Tawarikh,* I, p. 187; *Tazkira-i-ulama*-I Hind, p. 54, *Encyclopedia of Islam*, II, p. 606.
[2] Khan, Ali Muhammad, *Mir'at* (suppl.), p. 174
[3] Saqi Musta'id Khan, *Ma'asir-i- Alamgiri*, p. 240.
[4] Muslim Institutions, p. 148.
[5] *Hidaya*, English translation by Hamilton, 2nd ed. , pp. 334-35.
[6] *Encyclopedia of Islam*, II, p. 607.
[7] *Waqa'i' Ajmer*, pp. 24-25.
[8] Selected *Waqa'i*, p. 95.
[9] Khan, Ali Muhammad, *Mir'at*, I, p. 282

emoluments of servants of mosques and other disputes on property[1]. The *qazi* was the custodian of unclaimed property found on roads, valuables left by strangers[2] and property confiscated from the house of criminals, such as those killed in an encounter with the *kotwal*, and had the responsibility for the return of such property to the genuine owner, if any.

The religious duties of *qazi* were the enforcement of the rules and injunctions of the *shari'at*- to exhort Muslims to offer the five daily prayers and the *Id* and Friday prayers, maintain the "Islamic mode of conduct", observe fasts in the month of *Ramzan* and pay the *zakat*.[3]

Apart from the religious duties there are a large number of references to criminal cases such as murder, theft, robbery, attempt to murder, etc., being tried by the *qazi*.[4]

The *qazi* also performed the duty of holding inquiries into complaints originally submitted to the governor or the *faujdar* but referred by them to him. The criminal jurisdiction of the *qazi* also included such cases as adultery,[5] fornication,[6] inhuman practices,[7] consumption of liquor and other

---

[1] Khan, Ali Muhammad, *Mir'at*, I, p. 279-80.
[2] Khan, Ali Muhammad, *Mir'at*, I, p. 169.
[3] *Waqa'i'Ajmer*, p. 161; Khan, Ali Muhammad, *Mir'at* (suppl), p. 69.
[4] See Saqi Musta'id Khan, *Ma'asir-i- Alamgiri*, pp.126; Khafi Khan, Muntkhab-ul Lubab, II, pp. 156, 257-8; *Waqa'i' Ajmer*, pp. 4, 18-19; Khan, Ali Muhammad, *Mir'at*, I, pp. 278-80, *Waqa'i' Ajmer*, pp. 29, 68, for robbery and theft.
[5] Khan, Ali Muhammad, *Mir'at*, I, p. 282
[6] ibid
[7] ibid

intoxicants,[1] a slave's escape from his master's house,[2] the castration of boys, etc.[3]

He was the official visitor of the prison where he had powers to make an on the spot inquiry into the cases of prisoners; and if he felt necessary, he could release under-trial prisoners on bail.[4]

The *qazi,* after weighing the evidence presented by both the parties, pronounced judgment.[5] Generally, two male witnesses were sufficient to establish a claim or dismiss it.[6] The evidence was usually oral.[7] The testimony of close relations of either party was not accepted.[8]

The cases could also be settled by taking oaths if either party insisted on it and the plaintiff or the defendant took it in the manner acceptable to the other party, and the *qazi* had no objection.[9] In criminal cases procedure was simple. There was no system of commitment for trial; and all the courts followed the same practice. The complaint could be presented personally or

---

[1] ibid
[2] ibid
[3] ibid
[4] Ibid, pp. 282-3
[5] Foster, *The English Factories in India,* (1622-23), p.40
[6] *Akhbarat,* document no. 181, 1682-83; *ibid,* 1682-83; *Muslim Institutions,* p. 149; *Islamic Society,* I, part II, p. 131
[7] *Ibid.*
[8] *Akhbarat,* document no. 75, (1695-96).
[9] Thevenot, *Indian Travel,* p. 27; Ovington, p. 138.

through a representative.[1] The court could summon the accused at once or after hearing the evidence produced by the complainant.[2] Thereafter the *kotwal,* who acted as prosecutor, was asked to present his arguments. This done, the *qazi* viewed the whole case in the light of evidence presented; if he was satisfied that the accused had committed the crime, he pronounced the judgment, to be executed by the *kotwal.*[3] If there was some doubt, or he was not satisfied with the evidence and the arguments, he withheld his decision pending personal inquiry.[4]

The accused sentenced by the *qazi* was handed over to the *kotwal.*[5] With regard to the sentence, the *qazi* had no objection if in case of capital crime, the kinsmen of the victim demanded blood for blood or cash for blood. Both were permitted under Muslim Law.[6] The case could be heard in the absence of the accused, but the prosecution witness were recalled when the accused was arrested and his trial began.[7] If the plaintiff himself or his representative was absent, the accused could be freed.[8] But the judgment could not be

---

[1] *Vakil Report,* bundle no. 9,, document no. 977, dated 21st Ramzan, 1695; *Allahabad Documents,* no. 503; ibid, no. 12276, For cases, which were represented through the vakils, see *Kitabu'l- Ikhtiyar,* f. 8 ab,; Sir Thomas Roe, *The Embassy,* p. 260; Khafi Khan, II, pp. 250-51, 257-58.

[2] *Selected Documents* (Aurangzeb), p. 105. Cf; Sir Thomas Roe, *The Embassy,* pp. 141-2, 224-5

[3] Khan, Ali Muhammad, *Mir'at,* I, pp. 282-3

[4] *Waqa'i' Ajmer,* p. 38

[5] Khan, Ali Muhammad, *Mir'at,* I, p.283

[6] *Akhbarat, (*1702-03)

[7] *Kitabu'l Ikhtiyar,* f. 35ab; *Hidayat-al Qawanin,* f. 20 ab.

[8] *Ibid.*

pronounced in the absence of both the parties and their representatives (*vakil*).[1]

The *qazi* was required to get the sentence executed in his presence. In criminal cases the judgment was usually enforced by the *kotwal* who had the responsibility that the sentence passed by the *qazi* was carried out either in prison or at the *chabutra* (*kotwal's court*) or at an open place depending on the nature of sentence. The fine imposed by the *qazi* in criminal cases was also realized by the *kotwal's* men.[2] In civil cases, too, for the execution of the judgment, the *qazi* could invoke the help of the *faujdar* and the *kotwal.*

The *qazi* held his court in the principal mosque of the town or in the *kachehari* of the *faujdar* or at any other spacious public building erected or available for the purpose,[3] but normally not in his own house.[4]

The *qazi* had to attend the courts of the *subahdar* or *faujdar* and give them the judicial advice on matters in which it was required.[5]

---

[1] *Fatwa-i Alamgiri,* III, pp. 153, 195; *Fatwa-i Qazi Khan,* III, p. 48.

[2] According to the *farman*, dated 16th June 1672, issued to the *diwan* of Gujarat, Aurangzeb emphasized that the *qazi*s should get the sentence executed in his own presence, Khan, Ali Muhammad, *Mir'at*, I, pp. 278-283

[3] *Waqa'i' Ajmer,* p. 147.; selected *waqa'i,* p. 79; *Allahabad Documents,* no. 204; Khafi Khan, Khan, *Muntkhab-ul Lubab* ,II, p. 258

[4] Tahir Khan, the *faujdar* of Jodhpur, took grave objections to *qazi's* holding court at his own house, see *Waqa'i' Ajmer*, pp. 189-90; Khan, Ali Muhammad, *Mir'at*, I, p. 275.

[5] *Waqa'i' Ajmer*, pp. 13, 33, 37-8

Other Officials:

Mufti

In the early days of Islam legal opinion was sought from jurists for interpretation of the law. Such a trained jurist was called *faqih* or *mufti.* He was entitled to issue *Fatawa* or formal legal opinion in answer to a question submitted to him either by a judge or by a private individual.[1] But it was required that the *Fatawa* should be pronounced in precise words in accordance with fixed precedent because a *mufti* could not pronounce his own judgment.[2] Moreover, a *Fatawa* was applicable only in cases such as marriage, inheritance and divorce.[3] The *qazis* were to be assisted by the *muftis*. The *mufts* was supposed to be well read in the *Qur'an* (the holy book), *Hadis* (sayings of the Prophet), *Sunna* (Prophet's conduct), *Ijma*' (practices accepted by the Muslim Community) and *Qiyas* (application of analogy to determine law)[4].

Mir Adl:

Mir Adl was an associate of the *qazi*. According to *A'in*, the *qazi* passed the judgement, the *Mir Adl* executed it. It was his duty to carry out the findings

---

[1] *Encyclopedia of Islam,* II, p. 92.
[2] S. Ameer Ali, '*Islamic Culture under the Mughals*', (Hydrabad ,1927) I, part II, p. 134.
[3] *Encyclopedia of Islam,* II, p. 92.
[4] *Dictionary of Islam,* p. 367

of the *qazi.* He was kind of glorified clerk and had no judicial powers for trying cases.[1]

Darogha-i Adalat:

He was constantly in attendance at the court. His duty was to present before the court the people who had come to seek redress.[2]

Vakil-i shar 'i (or vakil-i sarkar):

Vakil was appointed to entreat the cases on behalf of the state. He was appointed by the provincial *qazi* or the chief *qazi.* His reward was one rupee a day. [3] He was also directed to give legal advice to the poor.

---

[1] *A'in,* I, p. 283.
[2] *Mir 'at,* I, p. 371.
[3] ibid, I, p. 174.

Bibliography

Sources

The sources are arranged in a rough chronological order and are classified under the following heads: (a) Persian Sources (historical works, collection of documents, works on ethics (*akhlaq*) and law, *tazkirahs* and works of a religious nature)

Persian sources

Historical works:

- Babur, Baburnama, transl. A.S Beveridge, 2 Vols. (London, 1921).
- *Tuzuk -i-Baburi*, in Elliot and Dowson , The History of India as Told by Its Own Historians, 8 vols. (London 1867).
- Khwandmir, *Humayunnama*, (New Delhi: Low Price, 1867-77).
- Abbas khan Sarwani, *Tarikh-I –sher shahi (Tuhfa-I Ser Shahi),* India office.
- Nizamuddin Ahmad (1592-93), *Tabaqat-i- Akbari* (Lucknow, 1875).
- Abdul Qadir Badauni (c. 1595*), Munthhab-ut Tawarikh*, eds. Ali Ahmad and W.N. Lees, 3 Vol. (Calcutta, 1864-69).

- Abul Fazl (1595), *A'in-i Akbari*, ed. Blochmann, 2 vols(Calcutta, 1867-77).
- Abul Fazl (1601) , *Akbarnama*, eds. Agha Ahmad Ali and Abdur Rahim, 3 vols (calcutta, 1873-87).
- Muhammad Qasim Hindu Shah Ferishta , *Gushan-i Ibrahimi* or *Tarikh-i Ferishta* (Lucknow, 1874).
- Shaikh Sikandar (1611), *Mir'at-i Sikandari*, eds. S.C. Mishra and M.L. Rahman (Baroda, 1961).
- Jahangir (1624), *Tuzuk-i-jahangiri*,ed. Syud Ahmud (Ghazipur and Aligarh, 1863-64).
- Jahangir, *Tuzuk-i-Jahangiri*, trans. by A. Rogers and H. Beveridge, 2 vols., (London, 1909-14).
- Mutamid khan , *Iqbalnama-i jahangiri* (Lucknow, 1870).
- Amin Qazwini, *Padshahnama*, British Museum, Ms Addl. 20734.
- Abdul Hamid lahori, *Padshahnama*, eds, Kabir Al –Din Ahmad and Abdul Ali Rahim (Calcutta , 1866-72).
- Muhammad Waris, *Padshahnama*, Department of History Library, AMU, Aligarh.
- Shaikh Farid Bhakkari, *Zakhirat-ul Khwanin*, ed. Moinul Haq, 3 vols. (Karachi, 1970, 1974).

- Saqi Musta'id Khan (1710-11), *Ma'asir-i 'Alamgiri*, ed. Agha Ahmad Ali (Calcutta. 1970-73).
- Sujan Rai Bhandari, *Khulasat-ut Tawarikh* (Delhi, 1918).
- Bhimsen, *Nuskha-i Dilkusha*, British Museum (London).
- Khafi khan(1733-34), *Muntkhab-ul Lubab*, eds. K.D. Ahmad and Haig (Calcutta, 1860-64).
- Khafi Khan, *Muntkhab-ul Lubab, Bibliotheca Indica*, (Calcutta, 1868), urdu trans. , Mehmud Ahmad Farooqi, (Karachi, 1963).
- Gulam Hussain Salim, *Riyaz-us Salatin*, ed. Maulavi Abdus Salam (Calucutta, 1890).
- Shah Nawaz khan (d. 1757), *Ma'asir-ul 'Umara*,ed. Molvi Abdur Rahim, 3 vols. (Calcutta, 1888-91).
- Shah Nawaz Khan, *The Ma'asir-ul-umra*, H. Beveridge, tr. (Calcutta, 1911-41 and 1952.
- Khan, Ali Muhammad (1761), *Mir'at-i Ahmadi,* ed. Nawab Ali, 2 vols. And supplement (Baroda, 1927-28, 1939).
- Saiyad Ghulam Hussain Tabatabai, *The Seir Mutakhirin* (Low Price Publications, Delhi, reprinted: 1990).
- *Pandnama-i-Jahangiri*, appended to Khwaja Nimatullah al-Harawi, *Tarikh-i-Khan-i-Jahani*, II, (Dhaka, 1962).

- Muhammad Qasim Hindu Shah Ferishta, *Tarikh-i Ferishta*,(Nawal Kishor, Lucknow, 1864).
- Muhammad Kazim, *Alamgirnama*, ed. Khadim Husain and Abdu-i Hai, Bibliotheca Indica,(Calcutta, 1865-73).
- Birbal Kachru, *Majmu' at Tawarikh*, (c. 1835), Research and Publication Department, Srinagar.
- Hasan Shah, *Ta'rikh- i Hasan,* urdu trans. by Moulvi Ibrahim, *Ta'rikh-i Kashmir,* (Srinagar, 1957).
- Abdu-l Baqi Nihawandi, *Ma'asir-i Rahimi*, ed. M. Hidayat Hosain, Bibliotheca Indica,3 vols., (Calcutta,1910-31).
- Abul Hasan Ali Mawardi, *Al-Ahkam-us Sultania*,(d. 1058 AD), cairo, 1909.
- Ibn Khaldun, *Muqaddama*, cairo, 1348 A.H., trans. Franz Ros Enthal ,3 vols.,(New York,1958).
- Abu Ishaq Shatibi, *Al-Muwafiqat fi usul-il shari'at*, cairo.
- Shah Waliullah, *Mujjat-ullah il Baligha*, cairo, 1286.
- *Waqai-i Nimat Khan Ali*, Nawal Kishor, Lucknow 1928.
- Ibn Tamiya, *Al-Siyasat- ush Shariyah,* cairo, 1322 A.H.
- Abu Bakr bin Ali al- Jassas, *Akham-ul- quran*, cairo, 1347, A.H., vol. I.
- Muhammad Salih, *Amal-i- selih*, Calcutta, 1923.

- S.H Hodivale, Historical Studies in Mughal Numismatic, Bombay, 1976.

Collection of letters, Documents, etc.

- Aurangzeb, *Ruqaat-i- Alamgiri*, Letters and Orders.
- Fazl bin Ruzbahan, *Suluk-ul Mulk*, rotograph No.46 (Ms. British Museum Or. 253), Research Library, department of History (AMU.,Aligarh).
- Sadiq Khan, *Ta'rikh- i-Shahjahani*,(British Museum, Centre of Advanced Studies, Department of History, Aligarh) Or. 174, Rotograph no. 39.
- *Futuhat-i-Alamagiri*, Rotograph No. 42 (MS : B. Museum Add. 23, 884) Research Library, Department of History (AMU., Aligarh).
- Abul Fazl, *Insha'-i Abul Fazl*, ed. Abdus Samad (Lucknow, 1872).
- Abul Fath Gilani, *Ruqa'at-i Hakim Abul Fath Gilani*, ed. M. Bashir Ahmad (lahore, 1967).
- Abul Qasim Namkin, *Munsha'at-i Namkin*, Ms Aligah Muslim University library, Aligarh.
- *Akhbarat-i Darbar-i Mu'alla* (imperial news reports, some of which have been published, but large number of them still remain unpublished),

Micro films of the National Library transcripts are available at the Center of Advanced Study in History, Aligarh.

- Ms Blochet, Supplementary Pers., 482, Bibliotheque Natioanle (Paris) (this is a collection of contemporary documents , mostly concerning Surat, compiled in the mid-seventeenth century, by an anonymous Mughal official in Surat).
- Cambay Documents, National Archives of India (New Delhi). (A series of contemporary documents concerning Cambay, classified under two series of acquired documents. numbering 2695 and 2702). These are over fifty documents, with the earliest, 2695/1, belonging to 1657 and the last, 2695/34.to 1761).
- Itimad Ali khan *.Mir'at-ul Haqaiq*, Fraser collection, 124, Bodleain Library (Oxford). (A diary of a retired Mughal official, written around 1727).
- *Waqa'i'Ajmer*, and c., A.D. 1678-80 Ajmer transcript (Ms. Asafiya Library, Hyderabad, 2242), Research Library, dept. of History, AMU., Aligarh).
- *Ahkam -i Alamgiri*, letters and orders collected by 'Inayatullah Khan (d. 1725).
- Hamiduddin Khan, *Ahkam-i Alamgiri*, Calcutta, 1929.

- Aurangzeb, *Ruq 'at-i Alamgiri,* letters and orders.
- Farrukh Siyar (FS), *Akhbarat-i Darbar-i Mu'alla (Akhbarat).*
- *Aja' ib u'l- Afaq*, British Museum MS.
- Saiyid Muhammad Bilgrami, *Tabsirat un-Nazirin*, Aligarh MS.
- Charles Rieu, Catalogue of the Persian Manuscripts in the British Museum, 3 vols, (London, 1879, 1881, 1883), (Rieu).
- Alfred Elliot, *Chronicles of Oonai* (Allahabad, 1862.

Works on Ethnics (Akhlaq) and law:

- Burhanuddin Ali bin Abu Bakr Marghinani (1197 A.D.), *Ai- Hidaya*, trans. Charles Hamilton(London, 1870).
- Nizam-ul Mulk Tusi. *Siyasat Nama* (1072-92), ed. H. Darke (Tehran 1962).
- Al-Ghazali, *Nasihat-ul, Nasihat-ul Muluk* (1105-18), ed. Jalajl Humai (Tehran, 1964); English Transl. F.R.C Begley,*Counsel for Kings* (London,1964).
- *Encyclopedia of Islam.*
- S. Ameer Ali, '*Islamic Culture under the Mughals'*,(Hydrabad, 1927).
- *Dictionary of Islam.*

- Nasiruddin Tusi, *Akhlaq-i Nasisi* (1235), ed. Mojtaba Minavi and Ali Reza Heydari (Tehran, 1964); English tranl. G.M. Wickens,*The Nasirean Ethnics* (London, 1964).
- Ikhtyar-ud Din Hasan bin Ghiyasuddin al-Husaini,*Akhlaq-i Humayuni*, Bibliotheque Nationale (paris), Ms. Blochet, 768.
- Khwandimir , *Habib al-Siyar* (Tehran, 1352 A.H).
- Tahir Muhanmmad Imaduddin Hasan Sabzawari , *Rauzat al-Tahirin* (1603),Bodleiean Library (Oxford).
- Waiz Husaian kashifi, *Akhlaq-i Muhsani* (Bombay,1890).
- Nasiruddin Qazi al-Khaqani, *Akhlaq-i Jahangiri*, India Office Library (London), Ms ,2207).
- Shamsuddin Muhammad Husain Hakim, *Intikhab-i Shayishta Khani* (1655), India Office Library (London), Ms. Or 457.
- Hafiz Muhammad Said, *Risala-i Muhammad Said* (1690).
- Shaikh Nizam Burhanpuri, *Fatawa-i 'Alamgiri*. Trans. Saiyad Amir Ali,ed. A. Rahman (Lucknow, 1932).
- Mir Ahmad Ali khan , *Akhlaq-i Muhammad Shahi* (1721).

Biographies (Tazkirahs) and Memoirs;

- Qiyamuddin Hairat Akhbarabadi. Tazkira-i maqalat-ush Shu'ara (1706-7) ed. Nisar Ahmad Faruqi (Delhi, 1969).
- Kishan Chand Ikhlas, *Tazkira-i Hamesha Bahar* (1723-24), Ms. No. 181, University Collection, Azad Library, AMU ,Aligarh.
- Bindraban Dass Khushgu, *Safina-i Khushgu* (1734), ed. Saiyad Shah Muhammad Ataur Rahman (Patna, 1958).
- Ghulam Ali Azad Bilgrami, *Tazkirat-ush Shu'ara* (1735-6),Subhan Allah Collections, Azad Library, Aligarh Muslim University , Aligarh.
- Anand Ram Mukhlis, *Safar Nama-i Anand Ram Mukhlis* (1745), ed.
- Muhammad Azhar Ali(Rampur, 1946).
- Dargah Quli Khan, *Muraqqa-i Delhi*, ed. and transl. Murul Hasan Ansari (Delhi, 1982).
- Ali Quli Khan, *Tazkira-i Riyazush Shu'ara* (1748), Habibganj Collection, Azad Library, Aligarh Muslim University, Aligarh.
- Mir Taqi Mir, *Zikr-i Mir*, ed. Maulvi Abdul Haqq (Aurangabad, 1928).
- Mir Taqi Mir, *Tazkira-i Nikat-ush Shu'ara* (1752) ,ed. Maulvi Abdul Haqq (Aurangabad, 1940).

- Saiyad Abdul Wahab Iftikhar, *Tazkirah-i Benazir* (17580,ed. Manzoor Ali (Allahabad, 1940).
- Ghulam Ali Azad Bilgrami, *Maa'sir-ul Kiram* or *Tarikh-i Bilgram* (Agra, 1910).
- Fath Ali Husaini Gurdezi, *Tazkira-i Rekhta Goyan* (1766-7), ed. Maulvi Abdul Haqq (Aurangabad, 1933).
- Mir hasan Dekhlavi, *Tazkira-i-Shua'ara-i Urdu* (1774-78), ed. Muhammad Habibur Rahman khan Sherwani (Delhi, 1940).
- Ghulam Hamadani Mushafi, *Tazkira-i Hindi* (1794-5), ed. Abdul haqq (Delhi, 1933).

Works of Religious Nature:

- Amir Hasan Sijzi, *Fawaid-ul Fawaid* (Bulandshahr, 1855-6).
- Dadu, Dadu Dayal Ki Bani, ed., Chandrika Prasad Tripathi, (Ajmer, 1964).
- Hamid bin Fazlullah, *Siyar-ul Arifin* (1530-36), Delhi, 1893.
- Shaikh Abdul Haq Muhaddis Dehlavi, *Akhbar-ul Akhyar* (Delhi, 1891-92).

- Shaikh Abdul Haq Muhaddis Dehlavi, *Zad-ul Muttaqin*, Ms Raza Library, Rampur.
- Abdus Samad, *Akhbar-ul Asfiya* (1605-6), Ms. Azad Library, Aligarh Muslim University, Aligarh.
- Muhhammad Ghausi Shattati, *Gulzar-i Abrar* (1613), Ms Reza Library, Rampur.
- Muhammad Sadiq Hamadani, *Tabaqat-i Shahjahani*, Ms. Habibganj Collection, Azad library, A.M.U., Aligarh.
- Dara Shikoh, *Safinat-ul Aulia* (1640), Kanpur, 1884.
- Dara Shikoh, *Sakinat-ul Aulia* (1642-3), Ms, Raza Library, Rampur
- Muhammad Naimulah Bhairaichi, *Ma'amlat-i Mazhari* (Kanpur, 1858-9).
- Mir Ghulam Ali Khan, *Ma'asir-ul Kiram* (1752-53), Hydrabad, 1910.
- Nuruddin Husain Fakhri, *Fakhru-ut Talibin*; urdu transl. Mir Mazhar Ali Kakorvi, *Malfuzat-wa halat-i Shah Fakhr Dehlavi* (Karachi, 1961).
- Qur'an.

Rajasthani and Hindi Sources:

- *Vakil* Reports (Rajasthani State Archives, Bikaner).
- *Arhsatta* Documents (Rajasthani State Archives, Bikaner).
- Banarsidas, *Ardhakathanaka,* trans. Mukund lath, under the title, *Half A Tale* (Jaipur, 1981).
- Banki Das, *Banki Das ri Vigat* (Jodhpur, 1956).
- *Marwar-re Pargana-ri Vigat*, ed. Fateh Singh (Jodhpur, 1968-69).
- Munhata Nainsi, *Munhata Nainsi-Khyat*, ed. Badri Prasad Sakaria, vol. I (1960), vol. II (1962), vol. III (1964), vol. IV (1967), Jodhpur.
- Kaviraj Shyamal Das, *Vir Vinod,* 4 vols., 1868.

Unpublished English Sources:

- Original Correspondence, India office records, London (Microfilm copies available at the National Archives of India, New Delhi).
- Surat Factory Records, Maharashtra State Archives, Bombay.
- Surat Factory Diaries, Maharashtra State Archives, Bombay.

- Public Department Diaries of the Bombay Government, Maharashtra State Archives, Bombay.
- *Waqa'i' Deccan*, (ed. Yusuf Husain Khan), Hyderabad, 1953.

Published English Sources:

- Alexander K Forbes, *Ras mala-Hindoo Annals of Province of Goozerat in Western India,* ed. H.G. Rawlinson, 2 vols. (London,1924).
- Alexander K. Forbes, *Ras Mala-Hindoo Annals of the Province of Goozerat in Western India,* ed. H.G. Rawlinson, 2 vol. (London,1924).
- C.T. Danvers (ed.). *Letters Received by the English East India Company from its Servants in the East* (London, 1897, 1900, 1901 and 1902).
- W. Foster (ed.). *The English Factories in India*, 13 vols. (Oxford, 1906-27)
- Charles Fawcett (ed.), *The English Factories in India*, New Series, 4 vols. (Oxford. 1936-52).
- C.R. Wilson, *The Early Annals of the English in Bengal, being the Bengal {Public Consultations for the First Half of the Eighteenth Century*, 3 vols. reprint (Delhi, 1983).

Travelers' Account and Memoirs:

- Tome Pires (1512-15), *The Suma Oriental of Tome Pires: An Account of the East from the Red Sea to Japan*, trans. Armando Cortasao (London, 1944).
- Durate Barbosa, *The Book of Durate Barbosa* (c. 1518), tr. M.L. Dames, Hakluyt Society, 1918-21.
- John Jourdain, *The Journal of John Jourdain*, 1608-17, ed. W. Foster, reprint (Cambridge, 1967).
- Nicholas Downton, *The Voyage if Nicholas Downton to the East Indies*, 1614-19, reprint (London, 1939).
- Edward Terry, *A Voyage to East India & co*, 1616-1619, in William Foster (ed.), E*arly Travels in India*, reprint (Delhi, 1968).
- Pietro Della Valle , *The Travels of Pietro Della Valle in India* (1623-24), 2 vols. (London, 1892).
- Francisco Pelsaert, *'Remonstrantie, c. 1627, tr. W.H. Moreland and Geyl, Jahangir's India* (Cambridge, 1925).
- J. Albert de Mandelslo (1638-40), *Mandelslo's Travels in Wetern India*. ed. M.S. Commissariat (Bombay, 1931).

- Francois Bernier, *Travels in the Mughal Empire*, 1656-68, tran. Archibold Constable, reprint 9Delhi, 1983).
- Jean de Thevenot (1665-67), 'Relations de I'Indostan & c,' translated test in Surendranath Sen (ed.), *Indian Travel of Thevenot and Careri* (Delhi, 1949).
- John Fryer, *A New Account of East India and Persia being Nine Years' Travels*, 1672-81, ed. W. Crooke, reprints (Delhi, 1985).
- Fr. A. Monserrate, *Commentary on his Journey to the court of Akbar,* transl. J.S.M. Hoyland, annoted by S.N. Banerjee, (London, 1922).
- J. Ovington, *A Voyage to Surat in the Year* 1689, ed. H.G. Rawlinson, reprint (London, 1929).
- Niccoleo Manucci, *Storia do Mogor, 1653-1708,* transl. W.Irvine, 4 vols., (London, 1907-8).
- N.Manucci, Pepys of Mogul India, London, 1913.
- Thomas Roe, *The Embassy of Sir Thomas Roe*, *1615-19* (ed. W.Foster, London, 1926).
- Fray Sebastian Manrique, *Travels, 1629-43,* transl. C.E. Luard assisted by H. Hosten, 2 vols. (Haklyut Society, London, 1927).

- Jean- Baptiste Tavernier, *Travels in India*, 1640-67, (transl. V. Ball, 2nd edition revised by W. Crooke, 2 Vols., London).
- Peter Mundy, Travels, 1630-34, Hakluyt Society, Second Series, (London, 1914).
- Father Pierre Du Jarric, *Akbar and Jesuites: An Account of the Jesuites Mission to the Court of Akbar,* Eng. trans., C.H. Payne, (New Delhi, 1979).
- Mount Stuart Elphinstone, *An account of the Kingdom of Cabul and its Dependencies in Persia, Tartary and India.*

Secondary Works:

The list here is arranged alphabetically, on the basis of surname of the author(s). Where an article is cited from an edited work, the complete details of the work are provided at the relevant place, on the basis of the surname of the editors.

- M. Jawaid Akhtar, 'Merchants and Urban Property: A Study of Cambay Documents of the 17th and 18th centuries ', in K.D. Bajpai, Rasesh Jamindar and P.K. Trivedi (eds.), *Gleanings of Indian Archaeology.*

- Muzaffar Alam, *The Crisis of Empire in Mughal North India: Awadh and the Punjab,* 1707-1748 (New Delhi, 1986).
- Muzaffar Alam and Sanjay Subrahmanyam (eds.), The Mughal State, 1526-1750 (Delhi, 1998).
- M. Athar Ali,' Towards an Interpretation of the Mughal Empire', JRAS, no. 1 (1978), 38-49.
- M. Athar Ali,' The Pre-colonial Social Structure and the Policy of the Mughal Empire', *PIHC* (Burdwan Session, 1983), Delhi, 1984, 253-61
- M. Athar Ali,' 'The Mughal Polity- A Critique of Revisionist Approaches', MAS, 27, 4 (October 1993), 699-710.
- M.A.Kaw, "Some Features of the Agrarian Crisis in Kashmir, 1753-1819, '*Proceedings of the Indian History Congress'*, 1986, Srinagar.
- M. Athar Ali, '*The Mughal Nobility under Aurangzeb*, revised second edition (Delhi, 1997).
- Indu Banga (ed.), *Ports townsmen and their Hinterlands in India* (Delhi, 1992).
- C.A. Bayly, *Rulers, Townsmen and Bazaars*: *North Indian Society in the age if British Expansion*, 1770-1870 (Cambridge, 1983).

- C.A. Bayly, 'The Pre-history of 'Communalism' Religious Conflict in India', MAS, 19, 2 (May 1985), 173-203; reprinted in C.A. Bayly, *Origins of Nationality.*
- C.A. Bayly, *The New Cambridge History if India, Vol. 2.1, Indian Society and the Making of the British Empire* (Cambridge, 1988).
- C.A. Bayly, *Origins of Nationality in South Asia: Patriotism and Ethical Government in the Making of South Asia* (Delhi, 1998).
- C.A. Bayly, *Empire and Information: Intelligence Gathering and Social Communication in India*, (1780-1870 (Delhi, 1999)
- Stephen P. Blake,' The Patrimonial –Bureaucratic Empire of the Mughals', JAS, 39, I (November 1779), 278-303.
- Stephen P. Blake, *Shahjahanabad: The Sovereign City in Mughal India*, 1639-1739 (Cambridge, 1991).
- Patricia O' Brien,' Crime and Punishment as Historian Problem', *Journal of Social History*. 11(4) (1978).
- Ruth te Brake, *Shaping History: Ordinary People in European Politics. 1500-1700* (Berkeley, 1998).

- M.S. Commissariat, *A History of Gujarat-Including a Survey of its Chief Architectural Monuments and Inscriptions,* 2 vols. (Bombay, 1937-38)
- S.M. Edwards, *Crime in India* (London, 1924)
- Michel Foucault, *Discipline and Punish: The Birth of the Prison.* trans. Alan Sheridan (London, 1991).
- Michel Foucault, *The History of Sexuality,* Vol. I. *An Introduction*, trans. R Hurley (New York, 1990).
- B.G Gokhale, *Surat in the Seventeenth Century: A Case Study in Urban History of Pre-Modern India* (Bombay, 1978).
- Jos J.L Gommans and Dirk H.A. Kolff (eds.), *Warfare and Weaponry in South Asia, 1000-1800* (Delhi, 2001).
- Steward N. Gordan, Bhils and the idea of a criminal Tribe in Nineteenth Century India', in Anand Yang (ed.), *Crime and Criminality*, 128-139.
- David Arnold, 'Crime and Crime Control in Madras, 1858-1947' in Anand A. Yang (ed.), *Crime and Criminality in British India* (Tucson, 1985).
- Stewarts' N .Gordon, *Marathas, Marauders and State Formation in Eighteenth Century India* (Delhi, 1994).

- Ranajit Guha, *Elementary Aspects of Peasant Insurgency in Colonial India* (Delhi, 1983)
- Ashin Das Gupta, *Indian Merchants and the Decline of Surat*, 1700-40 (Weisbaden, 1979).
- Irfan Habib, *The Agrarian System of Mughal India*, 1556-1707, second revised edition (Delhi, 1999).
- Sarah Hanley, 'Social Sites of Political Practice in France: lawsuits, Civil Rights and he separation of Powers on Domestic and State Government', *American Historical Review*, 102(1), (February 1997), 27-52.
- Douglas Hay, peter Linebaugh and E.P Thompson (eds.), *Albion's Fatal Tree: Crime and Society in Eighteenth Century England* (London, 1975).
- E. P. Thompson, 'Eighteenth-Century English Society: Class Struggle Without Class', *Social History*, 3, 2(1978)
- Agnes Heller, *Everyday life*, trans. G.L. Campbell (London, 1984).
- E.J. Hobsbawm, *Primitive Rebels: Studies in Archaic Forms of Social Movement in the Nineteenth and Twentieth Centuries* (Manchester, 1959).

- Eric Hobsbawn, '*Peasant and Politics*', *Journal of Peasant Studies*, 1.1 (1973), 3-22
- E.J Hobsbawn, *Bandits* second edition (Middlesex, 1981).
- Axel Honnethm *The Critique of Power; Reflective Stages in a Critical Theory*, trans. Keneth Baynes (Cambridge, Massachusette, 1991).
- David Jones, *Crime, Protest, Community and police in Nineteenth Century England* (London, 1982).
- Robert Jutte, *Poverty and Deviance in Early Modern Europe* (Cambridge, 1991).
- Iqtidar Alam Khan,' Early Use of Cannon and Musket in India, A.D. 1442-1526' *IESHR*, 24, 2(1981); reprinted in Jos J.L. Gommans and Dirk H.A. Kolff (eds.), *Warfare and Weaponry*, 321-36.
- Iqtidar Alam Khan, 'Socio-Political Implications of the Dissemination of Handguns in Mughal India', *Citi-Vithika: Journal of Art, History, Culture and Literature*, I, nos.1-2(1995-96).
- Iqtidar Alam Khan, 'Indian response to Firearms (1300-1750)', PIHC, 58 Session (Banglaore1997), Aligarh, 1998, 1-29.

- Iqtidar Alam Khan,' The Mathclock Musketin the Mughal Empire: An Instrument of Centralization, PIHC, 59 Session (Patiala, 1998), Aligarh, 1999.
- Iqtidar Alam Khan,'Re-Examining the Origin and Group Identity of the so called Purbiyas, 1500-1800', PIHC (Calicut Session, 1999), Aligarh, 2000, 363-71.
- Radhakamal Mukerji, The Economic History of India 1600-1800, (published in *JUPHS)*.
- Dirk H.A. Kolff, *Naukar, Rajput and Sepoy*: The Ethno history of Military labor Market in Hindustan, 1450-1850(Cambridge, 1990).
- Hermann Kulke (ed.), *The State in India*, 1000-1700 (Delhi, 1995).
- Alf Ludke (ed.), *the history of Everyday life: Reconstruction Historical Experiences and the ways of Life*. Trans, William Templer (Princeton, 1995).
- Stephen Lukes, *Power-A Radical View* (London, 1974).
- Stephen Lukes, 'Power and Authority', in Tom Bottomore and Rovert Nisbet (eds.), *A History of Sociological Analysis.*

- Michael Mann, *The Sources of Social Power* .Vol. I, *A History of Power from the Beginning to A.D. 1760* (Cambridge, 1986).
- Ruth Mckay, *The Limits of Royal Authority: Resistance and Obedience in Seventeenth Century Castile* (Cambridge, 1999).
- William H. Mc Neill, *The Pursuit of Power* (Chicago, 1982).
- Danial Miller, Michaiel Rowlands and Chrishopher Titlly (eds.), *Domination and Resistance* (London, 1989).
- S.C Mishra, *Muslim Communities in Gujarat: Some Preliminary Studies in their History and Social Organization* (Bombay, 1954).
- Shireen Moosvi, *The Economy of the Mughal Empire*, c.1595: A Statistical Study (Delhi, 1987).
- William A. Munro,' Power, Peasants and Political Development: Reconsidering State Construction in South Africa', CSSH, 38, 1 (January 1996), 112-48.
- Robert A Nye, 'Crime in Modern Societies: Some research strategies for Historians', *Journal of Social History*, 7(2), (1982).
- M.N.Pearson, Merchants and Rulers in Gujarat: The Response to the Portuguese in the Sixteenth Century (Delhi, 1976).

- Tapan Raychaudhury and Irfan Habib (eds.), *The Cambridge Economic History of India*, vol. I: 1200-1750 Cambridge, 1982).
- J.F. Richards, (ed.), *Kingship and Authority in South Asia* (Madison, 1978).
- J.F. Richards, *The New Cambridge History of India*, Vol. 1.2, *The Mughals Empire* (Cambridge, 1993)
- George Rude, The *Crowd in the French Revolution* (Oxford, 1959).
- George Rude, *The Crowd in the History*; 1730-1848 (London, 1985).
- Marshall D Sahlins, 'Segementary Lineage: An Organization of Predatory Expansion', *American Anthropologist*, 63 91961), 322-345.
- Satya Prakash Sangar, *Crime and Punishment in Mughal India* (Delhi, 1967).
- P. Saran, *The Provincial Government of the Mughals*, 1526-1658, reprint (Delhi, 1994).
- P. Saran, *Studies in Medieval History*, (Delhi, 1952).
- James C Scott, *Weapons of the Weak, Everyday forms of Peasant Resistance* (New Haven, 1985).

- Rafat Bilgrami, *Religious and Quasi Religious Department Of The Mughal Period*, (New Delhi, Manohar Publication: 1984).
- Farhat Hasan, *State and Locality in Mughal india, Power Relations in Western India, c. 1572-1730*, (University of Cambridge Oriental Publications: 2004).
- Findley Ellison Banks, *Nurjahan, Emperers Of Mughal India,*(New York, Oxford; 1993).
- Ruby Lal, *Domesticity and Power in the Early Mughal World,* (Cambridge Univ. Pr. 2005).
- Syed Muhammad Latif, *Agra, Historical and Descriptive, with an Account of Akbar and His Court and of the modern city of Agra,* (Lahore, Oriental Publication: 1896).
- C.H.Tawney, *Kathasaritsagara*, Terminal Essay on Suttee by Penzer, (Delhi: Motilal Banarsidas, 1968).
- Blair C., *Indian Famines.*
- Walter R. Lawrence, *The Valley of Kashmir*, (Oxford, 1895).
- V.A. Smith, *Akbar the Great Mogul, 1542-1605.*
- J. Sarkar, *Mughal Administration*, (Calcutta, 1920).

- M. Alam, 'The Mughal Centre and the *Subas* of Awadh and the Punjab, 1707-1748'.
- H.A. Rose, *Glossary of Tribes and Castes of the Punjab and the North-West Frontier Province*, (Patiala, reprint 1979).
- H. Yule and A.C. Burnell, Hobson-Jobson, *A Glossary of Colloquial Anglo Indian Words and Phrases and of Kindred Terms, Etymological, Historical, Geographical and Discursive* (London, 1886, reprint by Hertfordshire: wordsworth Reference, 1996).